

# EXHIBIT I

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 20-12345-mg

4 - - - - - x

5 In the Matter of:

6  
7 THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK,

8  
9 Debtor.

10 - - - - - x

11 United States Bankruptcy Court  
12 One Bowling Green  
13 New York, NY 10004-1408

14  
15 Thursday, February 8, 2024  
16 9:32 AM

17  
18  
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20  
21 B E F O R E :  
22 HON. MARTIN GLENN  
23 U.S. BANKRUPTCY JUDGE

24  
25 ECRO: KAREN

1 HEARING re Hybrid Status Conference Re: Claim(s) of Scott  
2 Davidson

3  
4 HEARING re Hybrid Disclosure Statement Hearing. (Doc ##  
5 2828, 2829, 2834, 2855 to 2859, 2867, 2873, 2874, 2885,  
6 2697, 2707, 2752, 2754, 2755, 2786 to 2790, 2793, 2794,  
7 2812, 2813, 2818, 2825, 2826, 2891, 2892, 2896, 2897

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25 Transcribed by: Sonya Ledanski Hyde

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5  
6 BY: GREG ZIPES, ESQ.

7 MARK BRUH, ESQ.

8  
9 ALSO PRESENT:

10 SCOTT DAVIDSON

P R O C E E D I N G S

CLERK: All rise.

THE COURT: Please be seated. Good morning.

MR. DAVIDSON: Good morning.

THE COURT: All right. The first matter we're going to take up is a continuation of the hearing with respect to Mr. Davidson. Why don't you come on up, Mr. Davidson. You can sit. Go ahead. Sit next to Mr. Butler. So first, Mr. Butler, maybe you can tell me what you've learned since we were here.

MR. BUTLER: Good morning, Your Honor. Andrew Butler, with Jones Day, for the debtor.

THE COURT: Good morning.

MR. BUTLER: Your Honor, we spoke with the claims agent in this case shortly after the hearing on Tuesday, and what happened was when they received what is now Claim Number 20079, it included with it as an attachment a proof of claim. They filed that attachment, which is now Claim Number 20078 as its own separate proof of claim.

So we've spoken with Mr. Davidson. From the debtor's perspective, we've filed an objection to a duplicate proof of claim, and so we've told him, whether he'd like 90182, what was filed by Mr. Garabedian, or 20078, that was filed as an attachment to his (indiscernible) proof of claim, we're happy for him to have either of them. We

1 just need to decide which one is which.

2 We've spoken with Mr. Davidson yesterday about  
3 that. Ms. Dine and I did by phone. We don't have a  
4 decision yet from Mr. Davidson. We've offered him an amount  
5 of time to make that decision, and I believe he'd like to  
6 address Your Honor.

7 THE COURT: Sure. Thank you very much, Your  
8 Honor.

9 Come on up to the microphone. Good morning, Mr.  
10 Davidson.

11 MR. DAVIDSON: Good morning, Judge.

12 THE COURT: So tell me what you want to do. And  
13 if you haven't made your mind up yet, I'll give you a couple  
14 of days to figure it out.

15 MR. DAVIDSON: Well, I don't think a couple of  
16 days is going to make much of a difference. I really don't  
17 know from a legal standpoint what the difference is between  
18 the two claims. However, what I do know is that the 12-page  
19 proof of claim dated 7/15/21, certified mail  
20 7019297000157394862, which I sent to Mr. Garabedian on that  
21 same date, July 15, 2021, was sent because Mr. Garabedian  
22 told me that this is the way that we proceed. Sign the  
23 document, then we proceed.

24 I signed the document. I sent it back to Mr.  
25 Garabedian. Mr. Garabedian is the one who generated that

1 document. I did not generate it. Based on that  
2 information, Mr. Garabedian told me that the claim number  
3 assigned to that original proof of claim, not the one  
4 wrongfully generated by Epiq, was Claim Number 90182. This  
5 is the claim I would like to remain.

6 THE COURT: That you would like to what?

7 MR. DAVIDSON: To remain.

8 THE COURT: Okay. That's the original claim?

9 MR. DAVIDSON: The original claim, which Mr.  
10 Garabedian filed. He received from me and signed for it on  
11 the 19th of July.

12 THE COURT: Okay. Well, let me just ask, because  
13 I'm fine with your decision, okay? What I saw as -- and I  
14 understand Epiq shouldn't have done it without at least  
15 talking to someone first. They did. I understand why they  
16 did it, because you had attached the report for yourself to  
17 the claim you filed for your brother, your deceased brother.

18 MR. DAVIDSON: I did.

19 THE COURT: So I think this was an honest mistake  
20 on their part that has led to this confusion. Okay.

21 MR. DAVIDSON: I agree.

22 THE COURT: Let me inquire. So at this point, you  
23 know, the report -- the medical report is -- the debtor has  
24 it, the committee has it. It's not public, but they have it  
25 because you attached it to your brother's -- to the claim

1       you were filing on behalf of your brother.

2               MR. DAVIDSON:   Yes.

3               THE COURT:   Okay.   You told me earlier this week  
4       that you disagreed with Mr. Garabedian as to whether you  
5       should use that report.   You indicated you wanted to.   Okay.  
6       It's not attached to your original claim.

7               MR. DAVIDSON:   No, it's not.

8               THE COURT:   So I'm fine whichever you choose.   If  
9       you use the original claim that's without the report, if  
10      it's the later filed claim that's with the report.   I didn't  
11      see any difference.   I didn't study every line and page.   It  
12      didn't look to me there was any difference in the claims  
13      other than the attachment of the report.   Here's what I  
14      would suggest.   You talk to Ms. Dine and Mr. Butler  
15      separately or together --

16              MR. DAVIDSON:   Together.

17              THE COURT:   And you decide.   Whatever that  
18      decision is, maybe I'd ask Ms. Dine just prepare a  
19      stipulation that whichever one he chooses, that's the  
20      surviving claim.   Okay.   There's only going to be one claim.  
21      You pick which one, okay?   You're telling me now you want it  
22      to be your original claim.   That's fine with me.   But I  
23      think the way to do that is just a stipulation.

24              Let me just say I am going to grant Mr.  
25      Garabedian's motion to withdraw, and that's granted and I'll

1 enter an order today doing that. With respect to that, you  
2 need to decide whether to find new counsel. Okay. I think  
3 one of the things that was made clear on the record earlier  
4 this week, I wanted to be sure that you weren't prejudiced  
5 by Mr. Garabedian saying that, well, he has an attorney's  
6 lien on -- if you have it by settlement or judgment,  
7 however, if you recover, he has no claim to any of the  
8 amounts that you recover. If you retain new counsel, you'll  
9 have to do an engagement with them. But my suggestion is  
10 talk with the committee's counsel before you do that. But  
11 the one thing, I just want the record in this case clear as  
12 to which your claim is, okay?

13 MR. DAVIDSON: Okay, sir.

14 THE COURT: All right.

15 MR. DAVIDSON: Whenever I speak with the  
16 committee, should opposing counsel be present?

17 THE COURT: They don't have to be.

18 MR. DAVIDSON: Oh, okay.

19 THE COURT: I mean, the committee represents the  
20 unsecured creditors. But the survivors --

21 MR. DAVIDSON: Yes.

22 THE COURT: -- are unsecured creditors in the  
23 case. While you individually are not represented by the  
24 committee, they're more aligned with your interests than the  
25 debtor is. I mean, Mr. Butler's being entirely fair about

1 it, and I appreciate his having checked out what happened so  
2 we got to the bottom of that.

3 MR. DAVIDSON: Yes.

4 THE COURT: Okay. So I would just ask, Ms. Dine,  
5 whatever Mr. Davidson's decision is, just put it in the form  
6 of a stipulation, okay?

7 MS. DINE: Your Honor, Karen Dine, Pachulski Stang  
8 Ziehl & Jones, on behalf of the committee. My only question  
9 on that is a slightly procedural one, given that the first  
10 claim was disallowed by order --

11 THE COURT: Well, just put in -- vacate the order  
12 disallowing that claim as a duplicate claim --

13 MS. DINE: -- just put in it as vacated. Okay.

14 THE COURT: Whichever, so there's one claim.

15 MS. DINE: Right. I just wanted to ask  
16 procedurally how you wanted us to address that.

17 THE COURT: Yeah, and if he decides that he wants  
18 that original claim, we'll just vacate the expungement of  
19 his duplicate claim and the later filed claim would just be  
20 a nullity. Okay?

21 MS. DINE: We're happy to assist Mr. Davidson.

22 THE COURT: All right. Thank you very much, Mr.  
23 Davidson.

24 MR. DAVIDSON: Thank you, sir.

25 THE COURT: Okay. All right. The court is going

1 to be in recess until 10:00 for the scheduled disclosure  
2 statement hearing. You're welcome to stay or leave,  
3 whichever you choose, Mr. Davidson, okay?

4 MR. DAVIDSON: Yes.

5 THE COURT: All right. I'm glad we got to the  
6 bottom of what happened at least resolved now for the day,  
7 okay? All right. So the court will be back at 10:00

8 (Recess)

9 CLERK: All rise.

10 THE COURT: Please be seated. Good morning,  
11 everyone. We're here in the Roman Catholic Diocese of  
12 Rockville Centre, New York, 20-12345. This is the hearing  
13 with respect to the disclosure statement. So I received a  
14 lot of paper, including some very recently. First, somebody  
15 on behalf of the debtor, just give me an update before we  
16 start going into the disclosure statement itself. I don't  
17 know who wants to do that.

18 MS. BALL: Good morning, Your Honor. Corinne Ball  
19 of Jones Day, on behalf of the debtor.

20 THE COURT: Good morning.

21 MS. BALL: Well, Your Honor, cutting to the chase  
22 and the reason for all the paper, we and the committee very  
23 carefully complied with your order of January 18. I think  
24 where we are now, we have limited the disclosure issues, we  
25 have limited the disagreements and maximized the agreements



1 on the solicitation motion and yesterday Your Honor should  
2 have received the committee's letter.

3 THE COURT: I did.

4 MS. BALL: We saw it slightly before then, just  
5 the evening before. So depending on what happens today,  
6 Your Honor, I think the fourth amended disclosure statement  
7 that was filed -- excuse me, Your Honor, that was filed on  
8 February 6th at Docket 2885 is what we're working from. I  
9 would only stop to point out to Your Honor that all the  
10 exhibits, save a new Exhibit 7, are appended to the  
11 disclosure statement that we filed on the 29th --

12 THE COURT: And I brought that out.

13 MS. BALL: -- which is Docket Number 2858. But I  
14 think that the committee has also responded, Your Honor, to  
15 your order of -- your order of January 30 regarding their  
16 position in another case. They filed their response  
17 February 1, essentially pointing out that the committee  
18 favored procedures that supported litigation against the  
19 debtor and the trust by survivors, but not litigation  
20 brought by or on behalf of the debtor or the trust against  
21 survivors, which I think is reflected in the TD -- what  
22 we'll call the trust distribution procedures, or TDPs, of  
23 the case to which Your Honor referred, the open diocesan  
24 case that is in Rochester.

25 THE COURT: I'll make no secret, Judge Warren and

1 I speak to each other from time to time. So that's how I  
2 first became aware of what appeared to be the committee's  
3 support for provisions in the plan in Rochester, which it  
4 was opposing here.

5 MS. BALL: Your Honor, it's interesting. If we  
6 would just take a step back and probably the most relevant  
7 open diocesan cases, which have been a source of concern for  
8 us and a great contributor to our plan structure, are  
9 clearly Rochester, Syracuse and Camden.

10 I stop there, Your Honor, to say, each one of  
11 those, as much or more than a year ago, and all of them are  
12 older or the same day as this case, reached an agreement  
13 with the committee on terms of the plan. Since that time,  
14 we've had a decision in Camden, we've had several  
15 adjournments in Rochester and we are expecting an opinion  
16 from Judge Kinsella in Syracuse. Essentially, those three  
17 cases are mired in litigation, primarily with the insurers -  
18 -

19 THE COURT: Yeah. I mean, one of the --

20 MS. BALL: -- regarding the trust distribution  
21 procedures to be used in claims.

22 THE COURT: Sure. But one of the big differences  
23 I see is settlements with insurers, not all of them, but  
24 some of them -- here we don't have any -- makes a big  
25 difference.

1 MS. BALL: Your Honor, it's very interesting. In  
2 each of those cases, the committee reached an agreement with  
3 the debtor, in fact, in two of the three leaving behind a  
4 deal with the insurer, which were the facts of Rochester and  
5 Camden, to reach a deal with the committee. No deal with  
6 the insurer was reached until after the new plan with the  
7 new trust distribution procedures were filed. In that case,  
8 after continuing litigation, particularly in Rochester, they  
9 were able to get the support of some, but not all the  
10 insurers.

11 THE COURT: Was there one -- one insurer --

12 MS. BALL: That was not the case in Syracuse or  
13 Camden.

14 THE COURT: -- one insurer that they haven't been  
15 able to get on board?

16 MS. BALL: Yes, and unfortunately, it happens to  
17 be the largest and the primary, as I understand the CNA.  
18 But critically, the sequencing -- we'll deal with the  
19 insurers later. We're in the same place. But we would not  
20 like to be mired in litigation over the bias or unfairness,  
21 or the lack of review of fees or claims in our trust  
22 distribution or other procedures.

23 Not surprisingly, Your Honor, there is not  
24 uniformity of committee counsel in all those cases.  
25 Pachulski is in Rochester. Special insurance counsel is

1 also a special insurance council of the committee in two of  
2 the three cases, Syracuse and Rochester. But what's  
3 interesting is some of the same state court counsel who Mr.  
4 Stang refers to as having significant number of claims is  
5 present in all three cases. So the continuity in process  
6 and the approach to the TDP shouldn't be a surprise.

7 THE COURT: But I also gather from, I think, what  
8 Judge Warren told me, there has not been a stay in place on  
9 state court litigation in Rochester for some time. But  
10 nobody seems anxious to push ahead with state court  
11 litigation on behalf of claimants in Rochester.

12 MS. BALL: That's our understanding, Your Honor.  
13 Also, while objections to claims were filed in Rochester,  
14 they were never prosecuted. So both sides stood down. So  
15 litigation continues. And what I hear from our client is,  
16 please, do something. We don't want to be like Rochester,  
17 Camden or Syracuse.

18 THE COURT: Well, where you may be is without a  
19 bankruptcy case and facing a lot of litigation in state  
20 court. That's where you may wind up being. I think I  
21 commented that one or two drafts ago, you included the  
22 toggle to dismissal if you didn't get the requisite votes.  
23 And I was chagrined when the committee objected to that  
24 after having made the motion to dismiss the case. You've  
25 now changed that it's not automatic. You have to make a

1 motion.

2 MS. BALL: We have taken on that burden, Your  
3 Honor. We still believe --

4 THE COURT: Well, it's not much of a burden,  
5 frankly. I mean, as frustrated as I've been in this case, I  
6 think I've made clear I'm not going to sua sponte dismiss  
7 the case. If somebody moves to dismiss, and whether or not  
8 it's opposed, I mean, if it's a meritorious motion, that'd  
9 be the result, but I'm not going to do it sua sponte. So I  
10 don't know whether we're all engaged in a dance here as to  
11 how this case will proceed.

12 Let me just say generally, and I don't know  
13 whether you're going to argue the disclosure statement  
14 issues or one of your colleagues is going to stand to do  
15 that. I am very pleased that I think that the principal  
16 concerns that I raised at the last hearing, to have a plain  
17 English explanation of what was really happening here, I  
18 think you've largely accomplished that. I still have a  
19 problem with the ballot. I think the U.S. trustee has  
20 objected to that. Let me make clear by these preliminary  
21 comments, I'm not saying that the disclosure statement as is  
22 written right now is going to be approved. But you've made  
23 really substantial progress. And I appreciate, in my view,  
24 the committee was professional and responded to my direction  
25 to do that, to provide comments, most of which have been

1       accepted. This last iteration, in fact, after they filed an  
2       objection to what you had filed, you incorporated most of  
3       what they did.

4               MS. BALL: We did.

5               THE COURT: That's frankly how the process, at  
6       least of the disclosure statement, is supposed to work. So  
7       I'm appreciative of all of you for that. There are a couple  
8       of -- and I don't know whether you want to deal with this or  
9       one of your colleagues. There's a couple of things I don't  
10      understand about how this process would unfold if the  
11      disclosure statement is approved, solicited and somehow you  
12      got the votes, which is going to be quite an uncertain task.

13              But assuming all that happened, someone tell me  
14      how the claims against the diocese-related parties who are  
15      release parties would be dealt with in administering this  
16      case. I ask that because you filed a lot of claims  
17      objections. I ruled on all of them. Claims got expunged,  
18      some with leave, some without. The plan and disclosure  
19      statement say that if claims are expunged, people don't get  
20      to vote. I think at the last hearing, I was told, oh, but  
21      they'll still have the ability to receive \$50,000 if they  
22      have CVA claims in state court. How will it work? What's  
23      the proposal for how it will work with respect to objections  
24      to CVA claims?

25              MS. BALL: We are prepared to deal with that this

1 morning, Your Honor. Indeed, we have -- to burden you or  
2 your clerks with a slide presentation, which I think will  
3 walk through it, expunged claims are not getting any minimum  
4 consideration. Disallowed claims that are still alive  
5 definitely are. And if I may approach, Your Honor?

6 THE COURT: Yeah, sure. Have you already given  
7 the committee a copy of what you're --

8 MS. BALL: Yes, I have.

9 MALE: (indiscernible) served, Your Honor.

10 THE COURT: Thank you. I'm sure you'll explain.  
11 I don't understand what you just told me about -- so I  
12 expunged -- I don't know what the total number of claims  
13 was, but I did. There's some appeals pending. I don't  
14 know. So let's focus on the ones that have CVA lawsuits  
15 that are also pending. If I understand the plan correctly,  
16 if the plan is confirmed, the effect would be to release the  
17 parishes and schools that are debtor-related parties. But  
18 the claimants would remain -- I think remain eligible for  
19 minimum distributions.

20 MS. BALL: Only if their CVA claim were ultimately  
21 allowed, Your Honor.

22 THE COURT: Well, that's what I need to  
23 understand. They're state court claims. They're not claims  
24 here. They're not claims against the debtor. Who decides  
25 whether the claims are allowed, if they're disallowed?

1 Who's making that decision? Who challenges it? It just  
2 seems strange to me that for non-debtor parties' state court  
3 cases, who's going to decide that?

4 MS. BALL: Your Honor, why don't we focus just for  
5 a moment, and it's on Page 10 of this booklet, on the 130  
6 claims that we have identified as litigating abuse claims.  
7 This is the new Exhibit 7, Your Honor, which really is an  
8 addendum to the claims list on Exhibit 6, which identifies  
9 for every claimant whether they're a litigating abuse claim  
10 or a settled claim. Everyone that is not a litigating abuse  
11 claim is in the trust distribution procedures, including  
12 with their state court actions.

13 MALE: (indiscernible)

14 MS. BALL: Excuse me?

15 MALE: (indiscernible)

16 MS. BALL: On the litigating abuse claim, Your  
17 Honor, these are the omnibus objections that we made.  
18 Here's how they worked out. And here also is the number of  
19 litigating abuse claims. There are five kinds of litigating  
20 abuse claims. We tend to know a lot about four of the five  
21 kinds. There are those, which are those 110 claims which we  
22 have objected to that have been disallowed, some of which  
23 still have lawsuits against a covered party, which you'll  
24 see here, that list --

25 THE COURT: Seventy-seven of them.



1 MS. BALL: That's right, Your Honor. That's one  
2 category is that 110.

3 THE COURT: Just where I got that number from, I'm  
4 on Page 10 of the --

5 MS. BALL: Yes, of the demonstrative --

6 THE COURT: -- presentation, the demonstrative.  
7 It's exhibit -- litigating abuse claims disclosure  
8 statement, Exhibit 7. When I look all to the right column,  
9 number of litigating abuse claims against covered party  
10 other than the debtor, 77 is the number at the bottom.

11 MS. BALL: So not surprisingly, Your Honor,  
12 they're dominated by the two notice claims, which, not  
13 surprising, there are 46 of those all told between the 8th  
14 and the 13th omnibus.

15 THE COURT: Just so the record is clear, you're  
16 indicating that when the court ruled on the 8th and 13th  
17 omnibus objections, there are 24 with respect to the 8th  
18 omnibus objection. Of those claimants, 24 of them had CVA  
19 actions. And as to the 13th, 22 of them had CVA actions.  
20 Do I understand that correctly?

21 MS. BALL: Yes, Your Honor. And in the Exhibit 7,  
22 that's actually appended to our most recent plan at 2885.  
23 We have a docket of all your decisions listed. So the date  
24 and where we can find them. For simplicity's sake, I did  
25 not put them here. But let's look at so we have 110

1     litigating abuse claims that resulted from the objections  
2     that we made. We have another 20 claims, Your Honor, which  
3     are CVA actions that do not have a proof of claim, which is  
4     how we get to the total of 130. I will come back to what's  
5     in there.

6             We then have, in addition to those two categories,  
7     we have as litigating abuse claims, we have the indirect  
8     abuse claims. The parish's indirect abuse claim has already  
9     been disallowed and they're getting released. So it's not  
10    them. But there are eight other parties that filed indirect  
11    abuse claims which are listed on Page 11.

12            THE COURT: Just so I can be sure to understand  
13    it, the next to last column, number of litigating abuse  
14    claims, the total is 130. The line above that has 20.

15            MS. BALL: Those are the CVAs that have no proof  
16    of claim was filed.

17            THE COURT: So there's no claim against the  
18    debtor, but there were 20 CVA actions. I don't know whether  
19    against schools or parishes, whatever they were.

20            MS. BALL: There are 16 named schools or parishes.  
21    But the quality of those claims, Your Honor, like the  
22    quality, we believe, of 110 claims is something else.

23            THE COURT: Well, let me -- but they're not  
24    creditors in this case. Are you proposing to release their  
25    claims? They're not creditors here. They don't get to

1 vote.

2 MS. BALL: Those 16.

3 THE COURT: Don't get to vote.

4 MS. BALL: Right.

5 THE COURT: They don't get to vote. Does the plan  
6 release their claim? They're not creditors in this case.

7 And you propose to discharge and release their claims  
8 against the parishes, right?

9 MS. BALL: We propose to channel their claims to  
10 the trust.

11 THE COURT: How do you do that, though? They're  
12 not -- they haven't filed claims here. They're not before  
13 me. They chose for whatever reason, maybe because they  
14 think they've got a slam dunk case against the parish. I'm  
15 sure you disagree with that, but assume they have slam dunk  
16 cases against the parish. They say, why should I bother  
17 with the diocese? I've got a parish with a lot of assets  
18 and I'll proceed against them. I'm not going to bother with  
19 this bankruptcy. The parish is not in bankruptcy. I'm just  
20 going to go against them. How do you -- what's the  
21 authority to release or discharge claims of non-creditors?

22 MS. BALL: That would be the only group, Your  
23 Honor.

24 THE COURT: I'm sorry?

25 MS. BALL: These 17, 16 (indiscernible) --

1 THE COURT: No, but tell me what's the authority  
2 to do that.

3 MS. BALL: Your Honor, the only way to reach them  
4 is really an extension, frankly, of the property of the  
5 debtor, which is the insurance. These same claims are co-  
6 insureds.

7 THE COURT: These are -- I don't remember the  
8 percentage now, but in a prior opinion, I wrote that, what  
9 was it, that the parishes paid like 80 percent of the  
10 premium. They are -- yeah, they're co-insureds. But you  
11 paid -- you, the diocese, paid a small percentage of the  
12 premiums. The parish -- I don't know how many parishes are  
13 involved with these 16 claims. Do you know?

14 MS. BALL: Sixteen, I would believe, Your Honor.  
15 But let's talk about what's there. What's there, many of  
16 those lawsuits, let's see, there are IRCP releases signed  
17 for three of them. But --

18 THE COURT: So do you know are they before Judge  
19 Steinman? Judge Steinman will decide what to do --

20 MS. BALL: Most of them are before Judge Steinman.  
21 Not all of them.

22 THE COURT: Okay.

23 MS. BALL: And obviously, some of them are stayed,  
24 Your Honor, because of the Arrowood injunction.

25 THE COURT: Sure. But I don't understand -- can

1 you --

2 MS. BALL: They have Boy Scout releases in some of  
3 those.

4 THE COURT: Look --

5 MS. BALL: They weren't creditors there either,  
6 Your Honor.

7 THE COURT: They may well, if there are valid  
8 releases, the parish will have a good defense before Justice  
9 Steinman or another state court judge. They'll have good  
10 defenses to it.

11 MS. BALL: So, Your Honor, we think there will be  
12 only a handful and maybe --

13 THE COURT: Well, focus on this handful. Look,  
14 let me put something --

15 MS. BALL: I understand your concern --

16 THE COURT: -- make something clear about -- maybe  
17 I can be persuaded otherwise, but --

18 MS. BALL: If we are looking --

19 THE COURT: Stop. I'm searching for my words.

20 MS. BALL: Okay.

21 THE COURT: I'll tell you when I'm done. Am I  
22 correct that there are 110 claims that have been disallowed  
23 or expunged by the court? How many of them reflect a final  
24 order of this court, as opposed to whether appeals or leave  
25 to amend? Do you know the answer to that?

1 MS. BALL: Your Honor, the ones that are still  
2 alive, frankly, Your Honor, are the 31 which was on appeal.  
3 That brief was filed late last week that Your Honor was the  
4 -- did not supervise objection and decision that Your Honor  
5 raised. That appeal is pending in front of Judge Oetken.  
6 So of the ones that --

7 THE COURT: So let's just take --

8 MS. BALL: -- and there are no live actions in any  
9 of those against a covered party, Your Honor.

10 THE COURT: Let's just take that. It's in  
11 response to the 6th and 16th omnibus objection.

12 MS. BALL: Right.

13 THE COURT: There are 31 claimants who don't have  
14 a right to vote.

15 MS. BALL: They do have their codefendants, Your  
16 Honor.

17 THE COURT: I understand, but they don't get to  
18 vote on a plan that would -- as to those 31, they'd have the  
19 ability to recover some minimum --

20 MS. BALL: If they are allowed on appeal, they  
21 would have the ability to get minimum consideration if those  
22 claims are resolved in their favor. But there is no covered  
23 party. There is no -- Your Honor's jurisdictional concern  
24 doesn't apply. And at least as to voting --

25 THE COURT: There's no CVA claim against a covered

1 party for those --

2 MS. BALL: No.

3 THE COURT: That's what you're telling me.

4 MS. BALL: No.

5 THE COURT: But what --

6 MS. BALL: And by the way, Your Honor, as part of  
7 our agreement on the solicitation motion, we are having all  
8 of the litigating abuse claims -- provisionally those --  
9 they are voting provisionally. And in essence, we will sort  
10 out the 3018 issue, if they have to make a motion, be  
11 allowed for voting only if indeed we're going forward. We  
12 don't see reason for either party to be saddled with that  
13 expense if we're not going to go forward. So all of those,  
14 at least 110, are voting provisionally. So we're only  
15 talking about, frankly, the 16th.

16 THE COURT: So the 13th omnibus objection, the  
17 notice issue, 22 of the 27 --

18 MS. BALL: Have claims against covered parties.

19 THE COURT: Covered parties. And are they going  
20 to get to vote or not?

21 MS. BALL: Yes, 27 are going to get to vote, Your  
22 Honor, provisionally. That is our proposal.

23 THE COURT: Well --

24 MS. BALL: Yes.

25 THE COURT: So let's just assume that, on appeal,

1 my decision is affirmed and they're finally disallowed. If  
2 that happens before voting, then you don't count votes,  
3 right?

4 MS. BALL: Well, the issue of whether those votes  
5 should count would be resolved once we know whether or not  
6 their votes make a difference and after the voting  
7 calculations are in. We're nowhere close, Your Honor. And  
8 we are hoping to reach the global settlement we all believe  
9 is in the best interest of everyone. We won't have to deal  
10 with it. We will have to deal with it if we're making  
11 progress on a global settlement. But all 110 will be  
12 voting. Most of them do not have claims against covered  
13 parties. The Boy Scouts --

14 THE COURT: On the 13th, 22 of them do.

15 MS. BALL: Well, Your Honor, it's more than that.  
16 The ones that I would suggest, and we have to get to the  
17 process for them, are the 46. If you were to add both the  
18 24 from the 8th --

19 THE COURT: Right.

20 MS. BALL: -- and the 22 from the 13th, those  
21 still have state court actions that have to be resolved.  
22 Pursuant to our plan, their recovery is against the trust  
23 and resolution under Section 8 of our trust distribution  
24 procedures says the bankruptcy claim gets resolved first.  
25 Then, since they've already chosen their forum, we will



1 restart the litigation against the covered parties. But  
2 recovery will be channeled to the trust. But they will be  
3 in that state court forum with all the rights and rules that  
4 apply there, which, Judge, we're all very sensitive,  
5 particularly on the notice issue, to how that might work  
6 out. But it would be against a covered party in a parish,  
7 and the notice issues may be very different there.

8 THE COURT: If the decision to expunge their claim  
9 became final before ballots are counted. They don't count,  
10 correct?

11 MS. BALL: Your Honor, that's an issue we have  
12 decided to defer on dealing with.

13 THE COURT: Well, I haven't.

14 MS. BALL: No, no. We, the committee, have asked  
15 you to defer dealing with that. One, March 15th is the  
16 voting deadline, if we were to be able to go out shortly.

17 THE COURT: It's not going to happen by March  
18 15th.

19 MS. BALL: Okay.

20 THE COURT: Okay. Even if you're successful  
21 today.

22 MS. BALL: Your Honor, we would expect that those  
23 appeals will be continued.

24 THE COURT: Look, I'll just say I think you've  
25 made substantial progress. I'm not ready to sign off on a

1 disclosure statement yet. But assuming that that happens in  
2 the next couple of weeks, it can't be March 15th. I mean,  
3 the claimants need more time to be able to --

4 MS. BALL: Fair enough, Your Honor.

5 THE COURT: I think it's complicated. It's very  
6 complicated.

7 MS. BALL: Your Honor, as someone who struggled,  
8 when the team started out based on the precedent in other  
9 diocesan cases, this was not -- what you saw the first time  
10 was very much in line with that. The challenge you set for  
11 us --

12 THE COURT: Those others got through without a  
13 plain English explanation of what was happening?

14 MS. BALL: It was very much based on the prior  
15 diocesan cases, with a heavy sprinkling of Boy Scouts  
16 precedent. But the challenge you set for us, plain English,  
17 and with the admonition --

18 THE COURT: I didn't invent the --

19 MS. BALL: -- it must not have complicated charts  
20 --

21 THE COURT: I didn't invent the concept of  
22 actually writing in plain English.

23 MS. BALL: No, you didn't. So we hope, and we'd  
24 love to go back and walk you through how we tried to meet  
25 that challenge. And even though you asked us to avoid

1 complicated charts, at the end of the day, even if we were -  
2 - and I think in our executive summary, we really did  
3 respond to everyone's points about funding, timing, funding,  
4 who's released, funding, who's providing it and the classes,  
5 we still came to the conclusion, which is why we have this  
6 section called the roadmap that I think is the first slide,  
7 the roadmap to the -- the abuse claim information roadmap,  
8 Your Honor, which appears --

9 THE COURT: Which page is that?

10 MS. BALL: -- at page -- I think it's Page 13,  
11 Your Honor, of the revised disclosure statement.

12 THE COURT: Hold on.

13 MS. BALL: Thirteen of 255 of 2885. It's also  
14 reproduced on Page 3 of the slides.

15 THE COURT: Thirteen of 255?

16 MS. BALL: Yes, Your Honor.

17 THE COURT: Okay. Hold on. Let me reread it.  
18 And I have read the whole thing, but it's still long.

19 MS. BALL: I have no doubt, Your Honor.

20 THE COURT: Let me reread it. So you're talking  
21 about on that page, which is Page 6 of the disclosure  
22 statement, 13 of 255, the abuse claim information roadmap.  
23 Let me read it to myself.

24 MS. BALL: So Your Honor, for ease of your  
25 reference, the charts that they would go to are in that

1 slide presentation.

2 THE COURT: Okay.

3 MS. BALL: Just to give you --

4 THE COURT: I've brought out the charts and --

5 MS. BALL: Just to give you an ease --

6 THE COURT: I'm still reading. So on the page on  
7 the abuse claim information roadmap, under 4(a), explain to  
8 me what makes the claim eligible for minimum consideration  
9 on the effective date or only upon allowance.

10 MS. BALL: Okay, Your Honor. If you were just to  
11 look at, (indiscernible) Slide 4, we'd ask them to go to  
12 Exhibit 6, which is Slide 4 in the presentation --

13 THE COURT: Okay.

14 MS. BALL: -- that I just gave you.

15 THE COURT: I'm looking at the screen here.

16 MS. BALL: If they are a litigating abuse claim,  
17 that's the 110 we just talked about, they are allowed to --  
18 their minimum compensation is only payable upon allowance or  
19 resolution of their covered party action. Everyone else  
20 that is a settling abuse claim, roughly 500, are entitled to  
21 minimum consideration on the effective date. And this tells  
22 the claimant, what do you particularly get. How is -- where  
23 are your lawsuits? And by the way, who else can you keep  
24 suing?

25 THE COURT: Just if you would, just coming back,

1 I'm back on this Paragraph 4(a). It's on Page 6 or Page 13  
2 of 255. What does a -- explain to me how plain -- you know,  
3 an abuse survivor reading this knows that when it says  
4 whether it is eligible for minimum consideration on the  
5 effective date or only upon allowance, how do they figure  
6 that out? What tells them how to figure that out?

7 MS. BALL: Let me just -- when we describe the  
8 offer in the plan, which is on Page 2 of the disclosure  
9 statement, Your Honor, we are clear that it's payable on the  
10 effective date for settling abuse claims. So if you are  
11 identified, which is why we thought we still needed a  
12 roadmap and charts, as a settling abuse claim, you get it on  
13 the effective date.

14 THE COURT: Point me. I want to see the language  
15 in the disclosure statement --

16 MS. BALL: All right. If we go to the executive  
17 summary --

18 THE COURT: Just can I -- could you wait until I  
19 finish speaking before you respond?

20 MS. BALL: Oh, sorry. Sorry, Your Honor.

21 THE COURT: Look, what I'm trying to be sure of is  
22 that a layman reads this --

23 MS. BALL: I understand.

24 THE COURT: And I understand it's complicated, but  
25 I want them to understand. Okay? So if they see this

1 language on Page 6, 4(a), whether it is eligible for minimum  
2 consideration on the effective date, or only upon allowance  
3 --

4 MS. BALL: Maybe we need to change (indiscernible)  
5 --

6 THE COURT: -- they know where else they have to  
7 look. Okay? But show me where it explains that. Okay?

8 MS. BALL: Your Honor, if we go to the very  
9 beginning of the disclosure statement, which is the  
10 executive summary, the very first paragraph tells you what  
11 class you're in.

12 THE COURT: Where is that?

13 MS. BALL: The very first paragraph.

14 THE COURT: I'm on --

15 MS. BALL: If your injuries, in all or in part,  
16 before October 1, 1976, you're class four. If your  
17 allegations are of injury after that date, you're in class  
18 five.

19 THE COURT: Okay.

20 MS. BALL: Okay. We then go on to talk about what  
21 is available under the plan. And if we turn to the offer,  
22 which starts on Page 2 of the disclosure statement, the  
23 offer in the plan has several major elements. Right above  
24 that, Your Honor, you see a paragraph, which is --

25 THE COURT: Right above what?

1 MS. BALL: Right above the bullet that starts with  
2 the offer.

3 THE COURT: Yes.

4 MS. BALL: It says disputed claims are litigating  
5 abuse claims that will have to be resolved through a court  
6 of competent jurisdiction. All other abuse claims are  
7 settling abuse claims unless they elect to be litigating.  
8 And if you're in doubt whether an abuse claim is either a  
9 litigating abuse claim or a settling abuse claim is on  
10 Exhibit 6. So you know what class you're in by the date of  
11 your allegations. And if your claim has not been disputed,  
12 you're a settling abuse claim. If it's been disputed,  
13 you're a litigating abuse claim.

14 THE COURT: So coming back to Page 6, 4(a), the  
15 words whether it is eligible for minimum consideration on  
16 the effective date or only upon allowance, what you're  
17 telling me, if it's a settling abuse claim --

18 MS. BALL: (indiscernible) changes.

19 THE COURT: -- it's entitled to minimum  
20 consideration.

21 MS. BALL: If it's settling, maybe we need to say  
22 that again here and change this language. I take your  
23 point.

24 THE COURT: Okay. I'm just -- look, the problem,  
25 late last night I'm flipping through pages going back and

1       forth to understand. I'm not trying to give you a hard time  
2       about this.

3               MS. BALL: I understand.

4               THE COURT: I just want to be sure --

5               MS. BALL: That people --

6               THE COURT: -- that when a layman reads this, or  
7       at least it tells them under whether you're eligible for  
8       minimum consideration on the effective date --

9               MS. BALL: We may --

10              THE COURT: -- with a parentheses, see page so and  
11      so, I just --

12              MS. BALL: Or maybe we just should say settling  
13      claim, effective date, litigating claim and allowance.

14              THE COURT: Even if you put the settling claims  
15      in, it's not self-evident to somebody exactly what that  
16      means.

17              MS. BALL: Okay.

18              THE COURT: But it just --

19              MS. BALL: The chart will identify for them what  
20      they are and the plan describes why. But we will redo the  
21      roadmap to lengthen --

22              THE COURT: In the roadmap, without winding up  
23      making it too long, is where they've got to go to see  
24      whether --

25              MS. BALL: I understand.



1 THE COURT: Okay.

2 MS. BALL: I think we have to clarify Section 4.

3 THE COURT: I'm just trying to make this so that  
4 it's really --

5 MS. BALL: (Indiscernible)

6 THE COURT: I haven't heard from Mr. Stang or Ms.  
7 Dine yet. But right now I'm just focused on when someone  
8 reads it, do they understand what it is they're going to  
9 get, what hurdles they're going to have to go through in  
10 order to collect? When you tell somebody you're eligible  
11 for minimum consideration, \$50,000 or \$100,000, okay, they  
12 want to know, yeah, I'm eligible for that. Okay, and then,  
13 okay, what do I have to do if I want more than that? Okay.  
14 Go ahead.

15 MS. BALL: We tried to address that, Your Honor,  
16 in describing the offer. If we go back to that Page 2, you  
17 say there's minimum consideration, payable and settling  
18 abuse claims on the effective date and upon allowance for  
19 litigating abuse claims, roadmap, see it, go to Exhibit 6.  
20 So for class four --

21 THE COURT: Even in a parenthetical, see settling  
22 abuse claims, Page 2.

23 MS. BALL: We can do that. We can do that. Got  
24 it.

25 THE COURT: It's already long. I'm not trying to

1 create a monster. But I just --

2 MS. BALL: We're very sympathetic. Having tried  
3 to meet your challenge, we are extremely sympathetic. If  
4 you look to the second sub-bullet, class four abuse claims.

5 THE COURT: Which page are you now?

6 MS. BALL: Same page describing the offer that's  
7 in the plan made to every claimant.

8 THE COURT: Page 2.

9 MS. BALL: Page 2.

10 THE COURT: Page 2. Go ahead.

11 MS. BALL: Under the offer and the plan, the first  
12 bullet is minimum consideration. You made a suggestion  
13 there, and we certainly will take it. For class four abuse  
14 claims, maybe again we need to say for those alleging injury  
15 before October 1, 1976, if that's you, there's a right to  
16 pursue additional recoveries, exclusive of punitive damages.  
17 Thank you, Your Honor (indiscernible) your suggestion.

18 THE COURT: Well, I am pleased that you took out  
19 the no economic loss.

20 MS. BALL: We do listen.

21 THE COURT: Well, I thank Mr. Stang --

22 MS. BALL: For raising it.

23 THE COURT: -- for raising that issue. This is  
24 not limited to this case. What I always worry about are  
25 things that haven't jumped out. This is really complex. If

1     you'll excuse me, it was buried in the trust distribution  
2     procedures, not in the plan, not in the disclosure  
3     statement. I worry about what else is hidden or buried that  
4     has real consequences, substantive effect.

5             MS. BALL: Actually, in preparing the  
6     presentation, Your Honor, I tried to go through all those  
7     things that the creditors' committee helpfully identified.  
8     We did do a page turn. I think we adjusted to most things  
9     that they were concerned about from a disclosure point of  
10    view.

11            But getting back to the offer, they can get --  
12    they can pursue additional recoveries from the trust. And  
13    then for settling abuse claimants, the next bullet describes  
14    what they would have to do. They have to provide a detailed  
15    submission for review by the trustee. The trustee will  
16    review it in light of two sets of criteria. We talked about  
17    those before, Your Honor, one regarding liability and  
18    severity of the abuse factors, and the other addressing  
19    impacts such as underemployment, et cetera, and that will  
20    result in a point award.

21            THE COURT: So this concept, this construct, which  
22    confirmed cases has it been used in?

23            MS. BALL: The idea of a trustee submission was  
24    used in Boy Scouts, and it was exactly this construct, Your  
25    Honor.

1 THE COURT: Was it used in any of the diocese  
2 cases?

3 MS. BALL: No. No.

4 THE COURT: Mr. Stang, do you know?

5 MS. BALL: The idea of a trustee submission was  
6 not used. It was based on the proof of claim in the  
7 diocesan cases.

8 MR. STANG: Your Honor, that is not correct. Each  
9 one of the TDPs provided for the additional submission to  
10 the trustee.

11 THE COURT: So just on this point, do you agree  
12 that this construct has successfully been used in confirmed  
13 plans in other cases?

14 MR. STANG: Not exactly this one. I think this is  
15 a two-step process that they're utilizing (indiscernible)  
16 submission and the trustee evaluates it, and then the  
17 trustee then does another evaluation for points. My  
18 recollection is that in the other TDPs, it was just all one  
19 process for the trustee to decide whether (indiscernible)  
20 get zero or you get (indiscernible) --

21 THE COURT: Do you object to the two-step process  
22 versus the one-step process? I mean --

23 MR. STANG: We think it's unnecessarily  
24 complicated and time-consuming and expensive, but --

25 THE COURT: Well, it's not -- you don't --

1 MR. STANG: It's not against my -- it's not  
2 against any (indiscernible) that we've found, Your Honor.

3 THE COURT: Okay.

4 MR. STANG: But it is unnecessary (indiscernible)  
5 expensive.

6 THE COURT: I've looked at plans in a couple of  
7 other cases. I haven't read ever any either contested or  
8 ultimately successful plans. I'm trying to understand.  
9 That doesn't mean it has to be exactly the same, but I'm  
10 just trying to understand what's been used and what's  
11 worked.

12 MR. STANG: The general concept of the trustee  
13 getting additional submissions so that -- I'm sorry, the  
14 claims reviewer, so that the claims reviewer can make an  
15 overall determination of the claim, be it awarded zero  
16 points or whatever the maximum is, it's generally consistent  
17 with what they're doing here. I just think the multiple  
18 steps are unnecessary.

19 THE COURT: All right. Thank you, Mr. Stang. Go  
20 ahead.

21 MS. BALL: Your Honor, the reason for the multiple  
22 steps are a robust process to review claims, which, as Your  
23 Honor should be aware, is the basic thrust of the litigation  
24 in Camden, Rochester and Syracuse. And if the claimants  
25 that are settling these claims, then on the next bullet,

1       they don't like what the trustees done, they have the option  
2       on payment of a fee to go into the independent review  
3       process with the neutral. There are provisions --

4               THE COURT: How much is the --

5               MS. BALL: -- to waive the fee --

6               THE COURT: How much is the fee going to be?

7               MS. BALL: \$10,000?

8               MR. ROSENBLUM: It's 20. No, 10.

9               MS. BALL: It's ten to start, and if you proceed  
10       through, it's another ten. But there is a process in the  
11       TDPs for the trustee to waive it.

12              MR. STANG: Your Honor, all costs and fees are to  
13       be borne by the claimants, and the \$20,000 is only as  
14       against that, that it's not a cap on what the claimant may  
15       have to pay as part of the process. This plan is very  
16       clear. All fees and costs are borne by the survivors.

17              THE COURT: What's been done in other cases?

18              MR. STANG: Well, the Boy Scouts did have a fee.  
19       It was borne by the survivors. The Boy Scouts process of  
20       reaching that consensus was very complicated. In the other  
21       cases, there was no additional fee unless there was a  
22       request for reconsideration. In those cases, I think it was  
23       -- my general recollection is not more than \$1,000.

24              THE COURT: Not more than what?

25              MR. STANG: \$1,000. That was for the

1 reconsideration of the points by the reviewer. But there  
2 was no additional fee. This (indiscernible) concept is, to  
3 the best of my recollection in terms of confirmed plans,  
4 only in the Boy Scouts. It is in other proposed plans. I  
5 honestly don't remember what we had in Rochester. The other  
6 cases we were not involved in. But Ms. Ball's been talking  
7 about Syracuse and (indiscernible) --

8 THE COURT: Just to take this point, did you seek  
9 to negotiate with the debtor about what, if any, fee there  
10 should be?

11 MR. STANG: No, Your Honor. We're not negotiating  
12 with the debtor on the plan provisions. We don't accept the  
13 plan. We've negotiated with them on the adequacy of the  
14 disclosure statement. We've tried to draw a very clear line  
15 as to what we are willing to talk to them about, and they  
16 said this is their best and final, and we're taking them at  
17 their word. It's unfortunate that we didn't  
18 (indiscernible).

19 MR. ZIPES: Your Honor?

20 THE COURT: Go ahead, Mr. Zipes.

21 MR. ZIPES: Greg Zipes, with the U.S. trustee.

22 THE COURT: Have you tried to negotiate this?

23 MR. ZIPES: No, Your Honor. I just wanted to  
24 point out my colleague Mark Bruh is involved with the  
25 Rochester case, and I believe that it's pending. That issue

1       that you're describing is pending. My office did object,  
2       and the judge is considering whether there should be any fee  
3       at all. But in that case, it was \$500 and \$1,000, something  
4       along those lines.

5               THE COURT: Mr. Bruh?

6               MR. BRUH: Your Honor, Mark Bruh, with the United  
7       States trustee. Yeah, there were the competing plans. I  
8       think one plan had it at \$1,000, another plan had it at  
9       \$500. I suggested zero. Why did it have to be borne by the  
10      survivor, and it was one of the points we raised at that  
11      hearing.

12              MR. STANG: Mr. Bruh refreshes my recollection.  
13      The committee plan said \$1,000. The CNA plan, which is the  
14      --

15              THE COURT: The insurance company.

16              MR. STANG: -- said \$500. And I believe that was  
17      just for the reconsideration.

18              MS. BALL: That's for reconsideration, not the  
19      independent review (indiscernible) --

20              MR. BRUH: Right.

21              MR. STANG: And Ms. Dine has reminded me, there's  
22      no IRO in the Rochester (indiscernible) we're really dealing  
23      with apples and oranges a lot of time --

24              MR. ZIPES: We understand that.

25              MR. STANG: -- other cases, Your Honor, which is



1 part of our chart objection in the disclosure statement.

2 THE COURT: It doesn't -- well, I should say it  
3 doesn't strike me as a disclosure statement issue, but you  
4 may be stealing your fate because if a survivor who's been  
5 waiting 20 years to recover suddenly says, now I've got to  
6 pay another 20 -- I got to pay \$20,000 to be sure that I'm  
7 getting a fair shake, I may say, forget this. Again, this  
8 point is not a disclosure statement issue.

9 MS. BALL: I understand, Your Honor. We will --

10 THE COURT: Okay. It rubbed me the wrong way.

11 MS. BALL: We hear you.

12 THE COURT: But I'm not -- this disclosure  
13 statement is not going to rise or fall on this issue.

14 MS. BALL: I understand, Your Honor. The  
15 inclusion of the independent review option was really  
16 designed because we're in this world of this so-called new  
17 paradigm where we don't engage with insurers until after we  
18 have a plan and trust distribution procedures. That is how  
19 we have been directed. Now, if a plan is on file and we go  
20 out, maybe, maybe, maybe we can change that.

21 THE COURT: I'm going to jump to a different --  
22 has there been any progress in any of the four insurance --  
23 well, one of them is stayed.

24 MS. BALL: One of them is stayed.

25 THE COURT: In the other insurance coverage cases?

1 MS. BALL: Your Honor, there is a great fear  
2 largely engendered, and they're present today, by what  
3 happened in Camden and Rochester, to engage with the debtor  
4 and not to have the committee on board. The sequencing of  
5 how you get to agreement in Camden, Rochester, Syracuse and  
6 ostensibly here has been the committee wants to come to  
7 agreement with the insureds first and then deal with the  
8 insurers, which a lot of litigation. We're still hoping  
9 that will happen. It may never happen, but we're trying to  
10 make sure that we don't have unnecessary litigation with the  
11 insurers, which is why the IRO is here. So that's where the  
12 insurers, Your Honor, participate in the process. That's  
13 where they get to be heard.

14 THE COURT: In the independent review.

15 MS. BALL: In the independent review option.  
16 That's the point of it, is to bring the insurers into the  
17 picture and not have them on the outside looking in saying,  
18 this is totally against our insurance coverage requirements.  
19 It's why it was put into Boy Scouts. It's why it is here.  
20 This is where the insurers get to have an option. It's also  
21 where the three parties, the insured, the insurer and the  
22 plaintiff can try to reach a settlement, which is another  
23 area that the committee asked us to explain, and we did,  
24 and, if we went in order, about how that might work. But  
25 that's the focal point --

1 THE COURT: Is there any --

2 MS. BALL: And the neutral, by the way, Your  
3 Honor, is a panel of retired judges. We've been speaking to  
4 several.

5 THE COURT: I'll ask Mr. Stang this question. Is  
6 there any argument that the fees paid for the independent  
7 review are added to any claim against the insurer?

8 MR. STANG: I'm sorry. I didn't catch the last  
9 piece of that, Your Honor.

10 MS. BALL: Is there an argument to be made  
11 (indiscernible) --

12 THE COURT: If somebody pays \$10,000 or \$20,000 to  
13 go through this independent review and winds up with an  
14 allowed claim, is there an argument that that should be, at  
15 the end of the day --

16 MS. BALL: It's a cost (indiscernible) --

17 THE COURT: -- against the insurer?

18 MR. STANG: There is a provision in the disclosure  
19 statement that says that that amount might be recouped from  
20 the insurer.

21 MS. BALL: It would be the trustee's obligation,  
22 Your Honor, to seek it.

23 MR. STANG: How do you ever figure that out as  
24 part of their settlement is beyond me. But it says that can  
25 be recouped. So I doubt the insurance companies are going

1 to say, well, this amount is for that, this amount is for  
2 that.

3 THE COURT: I understand.

4 MR. STANG: But it does say in the disclosure  
5 statement that that's a possibility.

6 THE COURT: Thank you. All I could say to the  
7 debtor is be sure you don't shoot yourself in the foot by --

8 MS. BALL: (Indiscernible)

9 THE COURT: \$10,000 or \$20,000 is a lot of money,  
10 a lot of money from people who've been waiting, in some  
11 cases, decades to get anything.

12 Mr. Stang?

13 MR. STANG: Your Honor, it's my understanding that  
14 the Boy Scouts matter, it is a significant matter, and in  
15 fact, there have been discussions about, and there are  
16 pleadings in the record in BSA regarding the timing of the  
17 IRO deadline vis-à-vis Purdue and whether people are going  
18 to be asked to put up -- I'll use the number \$20,000 because  
19 that seems to be the (indiscernible) Boy Scouts, \$20,000,  
20 when the plan might get blown up. And how do you get that  
21 money back from Judge Hauser, who's the settlement trustee,  
22 has a question on it.

23 THE COURT: All right.

24 MR. STANG: So, yes, it is not an insignificant  
25 amount of money for these folks individually or, frankly,

1 from state court counsel (indiscernible) expenses when they  
2 have a lot of funds.

3 THE COURT: Okay. Go ahead. Go ahead, Ms. Ball.

4 MS. BALL: Your Honor, just pointing out that in  
5 the trust distribution procedures, the trustee does have the  
6 authority to waive it based on the circumstances of the  
7 abuse claimant. Your point as to the amount we will take to  
8 (indiscernible) --

9 THE COURT: Look, it's not a disclosure statement  
10 issue. But it's bugging me. Okay. Go ahead.

11 MS. BALL: Your Honor, so I think we have spelled  
12 out how a settling claimant may get more through the -- by a  
13 written submission to the trustee. They have the option  
14 (indiscernible) the independent review option, and if they  
15 still want, they have the option to restart litigation.

16 But this gets me to some of the other points that  
17 the committee asked us to address that we have tried to  
18 address, Your Honor, if I may. If you were to just bear  
19 with us, we also added, and it's on Slide 5, Your Honor,  
20 beyond the charts and the roadmap, which were intended to  
21 tell the claimant, based on the date of the allegations of  
22 injury in your complaint, that's the starting point, here's  
23 your class, here's your sub-fund, here's what you're  
24 entitled to. Here's your non-release parties you can keep  
25 suing. We also have retained the concept, Your Honor, of

1 the choice still here. We have taken on the burden of  
2 dismissal. And in response to your questions, actually,  
3 Your Honor, about the parishes and the parish exposure, we  
4 did add another bullet to that that you've seen before, and  
5 this actually appears, Your Honor, this goes to the  
6 allocation issue that we talked about under the CPLR that we  
7 talked about with you. We have tried to put it in plain  
8 English under the choice. And this appears, Your Honor, on  
9 Page 5.

10 THE COURT: I'm on Page 5.

11 MS. BALL: So far, the claimant would know where  
12 they stand and, as they look at the chart on Page 4, what  
13 bucket they're in. They know what minimum consideration  
14 they're entitled to. They should understand, we hope, the  
15 offer, and they have a choice to make. And the only thing I  
16 think we need to change is this (indiscernible) --

17 THE COURT: So if Judge Steinman -- if Justice  
18 Steinman tries a case that -- well, let's say he tries a  
19 case that doesn't have the diocese as a defendant, the  
20 parish tries the empty chair defense. They blame the  
21 diocese. So the parish is going to ask a jury to decide  
22 whether the parish is more than 50 percent responsible. Is  
23 that how this would work out?

24 MS. BALL: That's how the parishes believe it  
25 would work out, yes, Your Honor, and it's obviously --

1 THE COURT: It'd be really interesting to see,  
2 have some of these cases tried by Justice Steinman, and this  
3 all would be a lot clearer. But you don't want to do that.

4 MS. BALL: Well, Your Honor, given the timing --

5 THE COURT: There may well be trials before you  
6 get to know whether you have a confirmed plan.

7 MS. BALL: Well, we need -- I think, Your Honor,  
8 we're all trying, and the committee has been very  
9 constructive with us on this point, Ms. Dine in particular,  
10 to try to defer confirmation issues and expenses associated  
11 with them till we know where we're going, if the vote fails,  
12 and I commend the committee for working with us on that  
13 principle. Let's see where the vote goes. But I just want  
14 to --

15 THE COURT: I'm only going to raise it now because  
16 you just talked about where the vote goes, and this is the  
17 point about whether 75 percent, assuming that Purdue, the  
18 circuit decision remains governing law in this circuit.

19 MS. BALL: True, Your Honor.

20 THE COURT: I thought that you tried too hard to  
21 hedge your bets as to whether it's two-thirds or 75 percent.  
22 I think this needs a very clear -- I don't remember what  
23 page this is on. This needs a very clear statement that  
24 under current law in the Second Circuit, a vote of at least  
25 75 percent of any class giving a third-party release is

1 required for the court to consider whether to approve -- to  
2 confirm the plan. Whether that's the exact language, I'm  
3 sure Mr. Stang has his view about.

4 MS. BALL: Your Honor, if I may, on the same page,  
5 if you're looking at Page 4 of the disclosure statement, we  
6 do say if it's not accepted by two-thirds, we'll move to  
7 dismiss. We don't say if it is accepted by two-thirds, it  
8 will be confirmed.

9 THE COURT: Well --

10 MS. BALL: And what we attempted was open --

11 THE COURT: -- I think it needs to say that under  
12 current law in the Second Circuit, in order to confirm a  
13 plan with third-party releases, at least 75 percent of the  
14 classes that would provide third-party releases must vote in  
15 favor of the plan. You can --

16 MS. BALL: Whether we move to dismiss, Your Honor,  
17 may turn --

18 THE COURT: Well, it may --

19 MS. BALL: -- on the two-thirds, just to give us a  
20 chance to get more.

21 THE COURT: Well --

22 MS. BALL: That's the point here.

23 THE COURT: I'm sorry, Ms. Ball. The law in this  
24 circuit, which I am bound to follow, requires at least 75  
25 percent in favor. If the law changes, you can ask me to



1 change it, but --

2 THE COURT: We can add that sentence, Your Honor.

3 MS. BALL: The creditors are entitled to know when  
4 they're asked to vote, that under the law of this circuit --  
5 this is not my ruling, it's the circuit's ruling. Under the  
6 law of the circuit, at least 75 percent of the affected  
7 classes have voted in favor for the court to consider.  
8 There may be other factors, but --

9 MS. BALL: One of the seven.

10 THE COURT: -- as one of the factors, at least 75  
11 percent. That's just a statement of existing law within the  
12 circuit. I think the creditors are entitled to know that  
13 when they're asked to vote.

14 MS. BALL: We will add that sentence, Your Honor.  
15 I had just wanted to point out to you our commitment to move  
16 to dismiss may not be the same.

17 THE COURT: Well, it may not.

18 MS. BALL: And that was the point of the way we  
19 worded it. It was intentional. But we certainly can add a  
20 sentence regarding the 75 percent.

21 MR. ZIPES: Your Honor, I believe it's in the  
22 disclosure statement, but it's buried.

23 THE COURT: I'm sorry. Say again, Mr. Zipes?

24 MR. ZIPES: I'm sorry. Greg Zipes, the U.S.  
25 trustee's office.

1 THE COURT: Just identify yourself.

2 MR. ZIPES: It is in the disclosure statement --

3 MS. BALL: It is.

4 MR. ZIPES: -- because my office was looking, but  
5 it is buried in the disclosure statement. I think --

6 MS. BALL: It's not in the executive summary, and  
7 there is a reference to two-thirds, which is why I wanted to  
8 point out to Your Honor where (indiscernible) --

9 THE COURT: It was the two-thirds that bothered  
10 me.

11 MS. BALL: Yes, that's why I went directly to  
12 that. And it was in that context.

13 THE COURT: Okay. All right. You'll all confer  
14 and make sure you come up with the language on this point.  
15 I'm not trying to be difficult on this. This is just --

16 MS. BALL: No, no, no.

17 THE COURT: It's the law of the circuit.

18 MS. BALL: Oh, we have it in the disclosure  
19 statement.

20 THE COURT: You'll be very happy if it remains the  
21 law of the circuit.

22 MS. BALL: At least. At least.

23 THE COURT: We'll see.

24 MS. BALL: We did submit an amicus on this point.

25 THE COURT: I didn't read your brief. I read some

1 of the briefs. But I didn't --

2 MS. BALL: We did, not on behalf of the diocese,  
3 on behalf --

4 THE COURT: I know.

5 MS. BALL: -- of the U.S. Catholic Conference of  
6 Bishops. So just as a reminder, Your Honor, if we now know  
7 the general plan, this is just to remind the creditors where  
8 you end up. Again, class four, injury before October 1,  
9 class five, injury after October 1. Settling abuse  
10 claimant, you get minimum consideration on the effective  
11 date. This is where all the money goes and where it ends  
12 up. And by this point, you would know exactly what bucket  
13 you're in, particularly if we amend the roadmap the way you  
14 ask.

15 MR. ZIPES: Ms. Ball, could I -- Your Honor, I  
16 promise I won't interrupt too much --

17 THE COURT: Go ahead, Mr. Zipes. Just identify  
18 yourself.

19 MR. ZIPES: While we're on this point --

20 THE COURT: Identify yourself.

21 MR. ZIPES: Greg Zipes, with the U.S. trustee's  
22 office. On this point, we did have one question, because  
23 this pre-'76, post-'76 is fairly unique to this case, and  
24 for a survivor to decide, they might straddle that, they  
25 might be pre and post and --

1           THE COURT: And it has the straddle language, but  
2 whether it's understandable, it's just --

3           MR. ZIPES: Yes. We want --

4           THE COURT: What are you suggesting?

5           MR. ZIPES: Your Honor, as long as it's clear to  
6 the court. But I --

7           THE COURT: But I'm not -- you know, clear to me,  
8 I'm --

9           MR. ZIPES: Well --

10          MS. DINE: It's not the same.

11          THE COURT: I'm wearing two hats. One, is it  
12 clear to me? And then I'm trying to think, is it going to  
13 be clear to the people who are asked to vote.

14          MR. ZIPES: And, Your Honor, we were reading it in  
15 that way as well. And so I'm just bringing that up right  
16 now, that I know that that was addressed or (indiscernible)  
17 --

18          MS. BALL: We used the -- the terminology on it  
19 was used in the injunction. If you have any Arrowood  
20 exposure, you're enjoined. That's how they looked at it.  
21 That's how we used it. But yes, the trustee, and we'll get  
22 to who we propose be the trustee to deal with this, the two  
23 trustees must address straddle claims because they're clear  
24 that some have injury in both. But this really comes down  
25 to what the New York Security Fund and Liquidation Bureau is

1       statutorily obligated to guarantee. That's the cutting  
2       point.

3               THE COURT: I understand that. And that's why I  
4       didn't --

5               MS. BALL: Just quickly --

6               THE COURT: I don't know. Do you have language,  
7       Mr. Zipes, on this point? Is there particular language you  
8       think --

9               MS. BALL: Would you like us to (indiscernible)  
10       straddle?

11              THE COURT: -- is required to clarify this point?  
12       This is not a controversial point.

13              MR. ZIPES: Your Honor, I hate to bring up a point  
14       that's not controversial among the parties, but it was a  
15       question that we had as we read it and --

16              THE COURT: When I said it's not controversial,  
17       it's not controversial because it's a result of what's  
18       happened to Arrowood.

19              MR. ZIPES: I think --

20              THE COURT: It just needs to be adequately  
21       explained so that a layperson understands why we've got  
22       these two --

23              MS. BALL: But perhaps then, Your Honor, we will  
24       add that the trustee is responsible for obtaining recoveries  
25       for those claimants who straddle -- whose injuries straddle.

1 THE COURT: Okay.

2 MR. ZIPES: Thank you, Mr. Zipes. We'd be happy  
3 to add that.

4 THE COURT: All right. Let me move to --

5 MS. BALL: We want to go to the committee's  
6 concerns next.

7 THE COURT: All right. Go ahead.

8 MS. BALL: I think it comes as no surprise to Your  
9 Honor that the committee is very concerned about litigating  
10 abuse claims.

11 THE COURT: That didn't get any -- you know, Mr.  
12 Stang, the use of the term didn't get any traction with me.  
13 I know you objected to the use of the term litigation abuse  
14 claims.

15 MS. BALL: But --

16 THE COURT: I didn't have a problem with it.

17 MR. STANG: We took your order to reflect a  
18 misunderstanding of what was going on here versus what was  
19 going on in Rochester. They're totally different  
20 situations, and we think it's a misleading term. But when  
21 you issued that order, I took it as castigating us for  
22 trying to play both sides.

23 THE COURT: I was castigating you for playing both  
24 sides. But it wasn't necessarily the terminology that gave  
25 rise to my concern.

1 MR. STANG: Your Honor, one is a consensual plan  
2 and one isn't. One has a debtor attacking survivors and one  
3 doesn't. So there's a world of difference between them.

4 MS. BALL: A 130 of 630 claims, Your Honor, is  
5 what we're talking about.

6 THE COURT: No, no, no. Let's --

7 MR. STANG: You know what? It's an objection to a  
8 survivor claim. That's what they're doing. And there's a  
9 difference between what they're doing here and what they're  
10 doing in Rochester. And that's what we thought the  
11 confusion was, and that's why we can't tell you  
12 (indiscernible) --

13 THE COURT: Let me ask you this while you're  
14 standing. Would you like a sentence in the disclosure  
15 statement the first time that litigating abuse claims is  
16 used, either in a footnote or a parenthetical, that refers  
17 to claims that are disputed? Does it say that clearly? If  
18 there's defined terms, it ought to be -- it needs to be  
19 defined in a -- there needs to be something that explains to  
20 the layperson that's what it means by litigating abuse  
21 claims. It's claims that the diocese has or may object to.

22 MR. STANG: Your Honor --

23 MS. BALL: It's on the first page, Your Honor.

24 MR. STANG: Your Honor, labels matter.

25 THE COURT: I understand.

1 MR. STANG: And you've spoken, and I think  
2 authentically, to what a non-lawyer survivor may have to  
3 struggle with to get through this. Why the debtor is so  
4 insistent on calling these litigated claims, which make it  
5 sound like this is at the election of the survivor. Now,  
6 you can go from a settling claimant to a litigating  
7 claimant.

8 But the starting point is that they are  
9 designating who they're going to continue fighting with, who  
10 they're going to continue attacking. So I don't get why  
11 they're so insistent on their label other than, hey, it's  
12 our label. Yes, and it's our plan and we get to say what we  
13 want. It was confusing. Frankly, I thought there was  
14 confusion by the court. I thought the order you issued  
15 indicated confusion, that you're comparing two plans and  
16 they're totally different in terms of the posture of the  
17 (indiscernible) --

18 THE COURT: I read the plan. I'm not sure it's --  
19 anyway, that's --

20 MR. STANG: So I just think labels do matter. And  
21 saying to someone now, well, go look at the definition and  
22 you'll figure it out, I think it's confusing and I think  
23 it's unnecessary.

24 MS. BALL: Well --

25 MR. STANG: This is part of (indiscernible) --



1 THE COURT: Can I just -- let me just --

2 MS. BALL: I'd like --

3 THE COURT: Stop. I'm not ruling on this  
4 objection yet. But did you suggest an alternative term to  
5 use?

6 MR. STANG: Yes. Contested claim. It's in our  
7 redline, which, by the way, we gave to them days before this  
8 hearing and not handed to us at 10:00 in the morning as this  
9 hearing started.

10 THE COURT: And you don't want to use the  
11 contested claims because of what reason, Ms. Ball? Again,  
12 I'm not ruling on it. I just want to hear what your  
13 response is on that.

14 MS. BALL: Your Honor, on that I defer to Mr.  
15 Rosenbaum -- Rosenblum.

16 MR. ROSENBLUM: Your Honor --

17 THE COURT: Do you have your ego tied up with this  
18 term litigating abuse? I didn't mean -- excuse me. I was  
19 being flippant. Excuse me.

20 MR. ROSENBLUM: For the record, Ben Rosenblum, for  
21 the debtor. Your Honor, we didn't think that the term was  
22 confusing. We had it in our original plan a year ago. It  
23 wasn't until after last hearing that the committee had a  
24 problem with it. It's something that you also can elect to  
25 be. So we didn't think contested claim made sense. We just

1 don't think it's confusing. And we didn't want to go  
2 through every single document, including every plan exhibit,  
3 to change it. It's not necessary.

4 THE COURT: It's really easy with a word processor  
5 to change it. So don't -- that is the least compelling  
6 reason I've heard.

7 MR. ROSENBLUM: Fair enough, Your Honor. More  
8 blacklines is fine. But it's something that you can elect  
9 to be, and we didn't think it was confusing. So we think  
10 contested is not (indiscernible) --

11 THE COURT: Did you try and see whether you could  
12 agree on a slightly different term?

13 MR. ROSENBLUM: Yes, Your Honor.

14 THE COURT: Did you?

15 MR. ROSENBLUM: We can talk about it. But they  
16 suggested contested --

17 THE COURT: If it's changed, it's a global search  
18 and replace. It's not rocket science. Even I could do it.

19 MR. ROSENBLUM: Fair enough, Your Honor.

20 THE COURT: I haven't ruled on it yet. Okay.

21 MR. ROSENBLUM: I'm not going to quibble with the  
22 court on --

23 THE COURT: I can't believe the two of you going  
24 to the mat over whether it's contested claim or litigation  
25 claim. I just -- okay. Go on to the next point, Ms. Ball.

1 MS. BALL: (indiscernible) the only additional  
2 comment, Your Honor, is it is our understanding of what's  
3 going on and Judge Poslusny's decision in Camden that not  
4 having a robust process to challenge claims, and we've  
5 already started it, Your Honor, when we thought of minimum  
6 consideration. You couldn't even conceive of that unless we  
7 reviewed every single proof of claim, all the CVA actions  
8 which, if we continue, we'll get through to this, to assess  
9 which ones will not survive a motion to dismiss and which  
10 ones clearly will survive a motion to dismiss.

11 THE COURT: Under whose standards?

12 MS. BALL: Your Honor, we had to look at both  
13 because we have actions that are still out there, but  
14 certainly under the federal standard. That's the infamous  
15 46, Your Honor, which we're going to get back to. We're  
16 going to get back to.

17 THE COURT: All right. Go ahead.

18 MS. BALL: On the litigating abuse claims, Your  
19 Honor, the obsession with the committee has been on  
20 expenses.

21 THE COURT: It's been what?

22 MS. BALL: About the expenses associated with it.  
23 This is the language that they asked us to put in.

24 THE COURT: Again, just on the expenses?

25 MS. BALL: They put it in -- we put it in at 250 a

1 claim. We think that's not really the case where you hold  
2 IRCP releases, when you have people that are  
3 extraterritorial and not entitled to it. Your Honor, if we  
4 get back to it, it's kind of, again, the 46 and arguably the  
5 six actions.

6 THE COURT: Go ahead.

7 MS. BALL: But we put it in.

8 THE COURT: Go ahead.

9 MS. BALL: And we put it in in all these different  
10 places.

11 THE COURT: Go ahead.

12 MS. BALL: So we think we addressed that. But it  
13 caused us to do something else, which was to add our view.  
14 And our view says, well, gee, while this risk exists, we  
15 don't believe it's likely, and these are the reasons why.  
16 Also, Your Honor, sadly, the significant amount of expense  
17 associated with these claims already been incurred and will  
18 be incurred before the effective date. And I think, Your  
19 Honor, we've seen -- what are we talking about? We're  
20 talking about the claims that you already saw on Exhibit 7.  
21 And when you think about going to state court with a  
22 release, I don't think it's going to be 250,000. When you  
23 think about going, saying you've already been paid, I don't  
24 think it's going to be 240,000 when it's IRCP released.  
25 It's not going to be that much money. You don't have a

1 claim against a covered party.

2 THE COURT: Basically, on this point, the  
3 committee and the debtor disagree on the level expenses --

4 MS. BALL: On the level of expenses.

5 THE COURT: -- about what the level of expenses  
6 are. And the disclosure statement will reflect the fact  
7 that there's a disagreement --

8 MS. BALL: There's a disagreement.

9 THE COURT: -- about it.

10 MS. BALL: Your Honor, there also is --

11 THE COURT: That's all that -- from the standpoint  
12 of the disclosure statement --

13 MS. BALL: That's it.

14 THE COURT: -- that's what's required, in my  
15 opinion.

16 MS. BALL: That's all that's required.

17 THE COURT: Okay.

18 MS. BALL: Your Honor, there also, in their  
19 supplemental objection, is concern that the number of claims  
20 may be extreme. We've already counted them, 110, subject to  
21 objection, 20 CVAs without a proof of claim. The indirect  
22 abuse claims, they have to file a proof of claim. We know  
23 exactly what they are. And, Your Honor, depending on how  
24 they are resolved, if we have no responsibility, those  
25 claims go away. As you know, Catholic Health's already

1 waived their claim. Their indirect abuse claim is part of  
 2 the settlement that you approved already. The remainder, if  
 3 we have no responsibility, and that goes to some of the  
 4 decisions on the Diocese of Brooklyn, not all of them.  
 5 These will not materialize, but they're limited.

6 THE COURT: Are there cases pending in state court  
 7 against the Diocese of Brooklyn, abuse claims?

8 MR. STANG: I think there are a lot of them --

9 THE COURT: (indiscernible)

10 MS. BALL: Yeah.

11 THE COURT: Including by the ones who also file  
 12 claims here?

13 MR. STANG: I don't know, Your Honor.

14 THE COURT: Okay. Do you know, Ms. Ball? I mean,  
 15 I had to rule on one of the ominous objections.

16 MS. BALL: Yes. You remember Franciscan Brothers  
 17 of Brooklyn.

18 THE COURT: Right.

19 MS. BALL: You remember Little Flower. Yes.  
 20 Brooklyn has cases that are before (indiscernible) --

21 THE COURT: But did the claimants who filed claims  
 22 against the diocese here have litigation pending against the  
 23 Brooklyn diocese?

24 MS. BALL: Yes, that does happen, Your Honor.

25 THE COURT: I think I was told yes, but I don't --

1 MS. BALL: The answer to that is yes. And let me  
2 give you an example. We had claimants who alleged a cause  
3 of action against the Diocese of Rockville Centre for  
4 injuries that occurred in 1951 or '52. It didn't exist --

5 THE COURT: Right, and I expunged those claims.

6 MS. BALL: But they named Rockville Centre,  
7 Brooklyn and a parish.

8 THE COURT: I think it was appealed.

9 MS. BALL: So their lawsuit against Brooklyn  
10 survives and the parish.

11 THE COURT: But they have a lawsuit.

12 MS. BALL: Yes.

13 THE COURT: They have a lawsuit against Brooklyn.

14 MS. BALL: Yes, they do.

15 THE COURT: Okay.

16 MS. BALL: Yes, they do.

17 THE COURT: All right.

18 MS. BALL: And their lawsuit, there's six of them  
19 against a parish, which will also continue.

20 MR. STANG: Your Honor?

21 THE COURT: Go ahead, Mr. Stang.

22 THE COURT: May I ask you a question regarding  
23 these indirect (indiscernible) --

24 THE COURT: Sure.

25 MR. STANG: The trust advisory committee is made

1 up of abuse claimants. Abuse claimants definition includes  
2 indirect abuse claimants. So I have two questions. One is,  
3 are these eight people, seven (indiscernible) eligible to be  
4 on the advisory committee because they're within the  
5 definition of the abuse claimant? My second question is,  
6 are the insurance companies' claims, to the extent they  
7 might seek reimbursement from the debtor for expenses  
8 they've advanced, that they went under coverage action?  
9 They have indirect abuse claims. It's within the  
10 definition. And are they eligible to serve on the advisory  
11 committee? Those are my two questions.

12 THE COURT: Well, who appoints the committee?

13 MR. STANG: The plan provides for the creation of  
14 the committee. Ms. Ball, has asked us repeatedly, who would  
15 you like to have on the advisory committee? We have not  
16 responded to that on the theory of we're not negotiating the  
17 plan with you. But I think survivors should know if any of  
18 these seven entities are eligible to be on the advisory  
19 committee, eligible, and second, whether the insurance  
20 companies are proposing that they hold the direct abuse  
21 claims and would be eligible. So three people on the  
22 advisory, three positions on the advisory committee.

23 THE COURT: Well, who appoints them? I mean, it's  
24 one thing to be eligible and another thing to be selected.

25 MS. BALL: Go ahead.



1 MR. ROSENBLUM: Your Honor, Ben Rosenblum, for the  
2 debtor. It's part of a plan supplement. The debtor  
3 designates them. It's not limited to claimants. There's  
4 nothing in the eligibility that restricts any of these  
5 people from serving. But the debtor is not going to  
6 designate an insurer or an indirect abuse claimant to the  
7 trust advisory committee.

8 THE COURT: Really? You heard it, Mr. Stang.

9 MR. STANG: I did. Thank you, Your Honor. Thank  
10 you, Counsel.

11 THE COURT: Did we clear up that issue?

12 MR. STANG: We did.

13 THE COURT: Okay.

14 MS. BALL: They asked us if it's going to be the  
15 bishop. I assure you it will not be the bishop either.

16 THE COURT: Okay. Go ahead. You know, there may  
17 be --

18 MR. STANG: He's not an abuse claimant.

19 THE COURT: I can't believe an insurer would  
20 actually want somebody on that committee, but it might not  
21 be a bad idea. But that's my view.

22 MS. BALL: Going on, the committee also, going  
23 back to slide -- I guess it's slide -- where we left off on  
24 litigating abuse claim, Slide 8, where we were. We're not  
25 at Slide 9. This is something else that both Your Honor and

1 the committee asked us about. Great minds think alike.  
2 You'll see that note to draft. What does it mean for these  
3 covered party people? Slide 10, I think it is, Your Honor.  
4 My apologies. No, 11. The next one you see where it says  
5 note to draft. They asked the same question you asked, Your  
6 Honor. And we've done a number of things.

7 THE COURT: Where does it say note to draft? I'm  
8 just --

9 MS. BALL: NTD.

10 THE COURT: Okay.

11 MS. BALL: Do you see it?

12 THE COURT: Yeah.

13 MS. BALL: Disclose whether we're changing the  
14 forum or whatever else. We added a footnote because what  
15 our plan says is that the bankruptcy proof of claim and  
16 objection has to be resolved first. But other than that,  
17 they have chosen the forum. That forum's rules will govern.

18 THE COURT: Okay.

19 MS. BALL: So I think that we did -- and I just  
20 brought in that part of what would happen. The committee  
21 then asked us to talk about trust distribution procedures,  
22 and they asked us a series of questions. These are the  
23 questions that they asked, which were basically, how does it  
24 work? And although it's very difficult to read for those  
25 who are Zooming --

1 THE COURT: I have it on my screen here.

2 MS. BALL: Okay. Mostly the questions related to  
3 the IRO for settling abuse claimants, which I think Your  
4 Honor highlighted them. But we did provide an answer. That  
5 answer appears in the disclosure statement under test  
6 distribution procedures. It's on Slide 14. And we have put  
7 in what we believe are the answers to their questions.

8 THE COURT: Are you satisfied with the answers?

9 MR. STANG: We are not, Your Honor.

10 THE COURT: Okay. All right. Go ahead, Ms. Ball.  
11 You'll --

12 MS. BALL: Well, please give us the words that you  
13 would like.

14 MR. STANG: It's not --

15 THE COURT: Well, we're looking at this now. Tell  
16 me --

17 MR. STANG: Do you (indiscernible) --

18 THE COURT: Yeah, I do. I want to hear it.

19 MR. STANG: Two things, Your Honor.

20 THE COURT: Just identify yourself by name for the  
21 record.

22 MR. STANG: James Stang, for the committee. Two  
23 things. They don't talk about Ecclesia here. Ecclesia is  
24 putting up its \$15 million. It's done. It's going to, I  
25 guess, the general settlement trust. Yet there are all

1     these provisions for IROs and restarting litigation, but  
2     they need to make clear that it doesn't -- they say they  
3     don't think they will -- that anyone would choose it if  
4     you're an Ecclesia person. But I don't know how Ecclesia  
5     pays out any money above and beyond the 15 that they would  
6     have funded as part of the initial funding of the trust.

7             So I think they need to make clearer that Ecclesia  
8     claimants don't have this process readily available to them  
9     practically because Ecclesia is never paying more money.  
10    The second thing is they really don't address -- they do it  
11    rather cryptically, I think, on the Arrowood issue. They  
12    say, maybe it's a footnote, that there's this court opinion  
13    where in a claim objection, an appeal has been allowed to go  
14    forward vis-à-vis Arrowood. This is a little different than  
15    that. And I think they need to be very clear that the risk  
16    that Arrowood's stay stops this --

17            THE COURT: May I -- okay. Have you given the  
18    debtor's counsel specific language that you believe should  
19    be included to satisfy the disclosure requirements?

20            MR. STANG: We have not. But we have asked them,  
21    and it's in our objection to address the issue. And we  
22    don't think that what Ms. Ball is putting up on the screen  
23    is doing that. But we can come back and provide that.

24            THE COURT: I'm not ruling from the bench today.  
25    On this issue, please engage with the debtor's counsel,

1       because it sounds to me we're talking one or two sentences  
2       that you would like added to this language. Is that the  
3       gist?

4               MR. STANG: (indiscernible) those are our concerns  
5       for now.

6               THE COURT: Okay.

7               MR. STANG: (indiscernible)

8               MS. BALL: Your Honor, we will be happy --

9               THE COURT: For disclosure statement purposes --

10              MR. STANG: Yes, yes.

11              THE COURT: -- adding a couple of sentences that  
12       address this concern that was raised by the committee I  
13       think is appropriate. Here's what I'm going to ask you to  
14       do. Try and do that with respect to this point. If you  
15       can't, then I'll rule based on just what I have in front of  
16       me. Okay?

17              MS. BALL: Your Honor, happy to. I see that the  
18       paragraph that Mr. Stang accurately referred to isn't on the  
19       screen, but it's the very next paragraph where we do say,  
20       and you might find it in your disclosure statement. It's on  
21       Page 49.

22              THE COURT: Let me turn to the page. Okay. Which  
23       is the -- it doesn't look like it's on 49.

24              MS. BALL: This should be in the redline, Your  
25       Honor.

1 THE COURT: I'm looking at the --

2 MS. BALL: The clean one?

3 THE COURT: The clean, clear copy.

4 MS. BALL: It's just above the commencement of  
5 Section 4 of the disclosure statement. It's the last --

6 THE COURT: Just give me a page with it.

7 MS. BALL: Okay.

8 THE COURT: Clean copy of the disclosure  
9 statement.

10 MS. BALL: 180 of 255 is what I --

11 THE COURT: Which is it? What of 255?

12 MS. BALL: 180.

13 MR. STANG: Your Honor, I did see that. I just  
14 meant that -- we'll address whether earlier on in the  
15 statement that should be --

16 THE COURT: Okay.

17 MR. STANG: -- defined because (indiscernible) --

18 THE COURT: All I can say is this ought to be  
19 resolved.

20 MR. STANG: Yeah. You're right. You're right.

21 THE COURT: Okay.

22 MS. BALL: Your Honor, we'd love to.

23 THE COURT: Go ahead. Okay.

24 MS. BALL: We will work on it. I only wanted to  
25 point out to Your Honor that --

1 THE COURT: Okay. That's fine.

2 MS. BALL: -- this is unprecedented on this scale.  
3 We did get a ruling. Indeed, we got a ruling from the  
4 district court on the appeal that the Arrowood injunction  
5 does not affect bankruptcy processes. And that opinion is  
6 what we put here as. That's what we're guiding that to the  
7 extent -- and that's why I wanted you to look at it.

8 THE COURT: What page is that on?

9 MS. BALL: That was 180 of 255. No, 54 of 255 in  
10 the clean, Your Honor.

11 THE COURT: Okay. Hold on.

12 MS. BALL: If that's easier --

13 THE COURT: I want to look --

14 MS. BALL: The paragraph beginning with respect to  
15 the hourly --

16 THE COURT: Yes. Let me read it. Okay. I see  
17 it.

18 MS. BALL: You see it?

19 THE COURT: I do.

20 MS. BALL: I just wanted to be sure that we were  
21 all clear that we certainly were not ignoring our esteemed  
22 colleagues. We appreciate it, if that is in question.

23 THE COURT: I'm sure you don't ignore Mr. Stang.  
24 Okay.

25 MS. BALL: No, not at all. So we did put that in

1 and, Your Honor, that's the only guidance that we really  
2 have.

3 THE COURT: Okay. Do me a favor. Work this out.

4 MS. BALL: Okay. If we move right along to the  
5 next issues that seem to trouble the committee the most, it  
6 is minimum consideration. Your Honor, I'm going through  
7 these because they come up in the committee letter, which  
8 we'll get to. We have been clear. They asked us. We got a  
9 disclosure statement that minimum consideration is not  
10 refundable. If you've gotten it, you've gotten it. We've  
11 also been clear that to the extent they do not -- the  
12 litigating claims are not resolved, they're resolved against  
13 the claimant, that reserved, goes back to the trust, the  
14 relative trust. We've clarified that. We've added that  
15 provision.

16 As I said before, Your Honor, the point of our  
17 review of every claim and every CVA action was to really  
18 isolate those that were legally deficient. And the standard  
19 we use is what claims were likely to survive a motion to  
20 dismiss. And if they did, we didn't consider issues that  
21 are expensive to litigate. Credibility. Medical expert.  
22 We looked at those that really flawed a case, and those are  
23 the ones that are getting minimum consideration, and they're  
24 not waiting. They're not waiting for a trust procedure. I  
25 think Your Honor, from our reply, is aware that the fastest



1 claims review we could figure out was somewhere in seven  
2 months to a year, once the claim review process started.  
3 The other belief that we have about minimum consideration  
4 that I wanted to share with Your Honor is our plan now  
5 contains an offer for every -- I'll use the word claim  
6 that's not disputed, since we don't know what's going to be  
7 contested, litigating or where that might end up.

8 So every counsel has an offer of minimum  
9 consideration, which is a standard frequently used where you  
10 have plaintiffs with multiple clients. When they go talk to  
11 their clients, it may trigger their obligation to speak to  
12 each client. That was another motive for minimum  
13 consideration, was to make sure that every claimant was  
14 aware that there was an offer outstanding to them. Moving  
15 along, the two trusts, Your Honor, I think this is really a  
16 product of where we are with the Arrowhead situation. We  
17 have been unable to find precedent of anything on this  
18 scale.

19 Your Honor is likely aware it's not only this  
20 diocese that is Arrowood, it's also Brooklyn. When we  
21 started off, this diocese came out of Brooklyn, and that is  
22 the primary reason we view the trustee in Arrowood, which  
23 you'll get to when we propose for that, as really focused on  
24 recovering those claims. It is true we have allocated value  
25 between the trust based on per capita. But we also know

1       there has to be a straddle reallocation because it's  
2       imperfect at best, given the absolute cleavage that the  
3       Arrowood insolvency has caused. Part of the separate trust  
4       is a trustee who's only responsible for people the New York  
5       State Security Fund is responsible to, and also is  
6       expensive. The reimbursement that he's going to seek, and  
7       it is a he, in our view, Your Honor, is strictly for  
8       Arrowood expenses.

9               So it really is to promote and maximize the  
10       recovery. Indeed, maybe it's no good deed goes unpunished,  
11       but it was truly intended to maximize that asset for  
12       creditors. And let me show you why we think it's important.  
13       Next slide. This is why, Your Honor, and you've probably  
14       seen this tower before. Put enough of those together, and  
15       it's a big claim. You're rarely going to see such a  
16       cleavage in insurance coverage with just one insurer for so  
17       many claims.

18              And some of them, Your Honor, are going to be  
19       small. Those coverages, the guarantee is for the lesser of  
20       coverage or a million dollars per claim per policy period.  
21       Somehow we think a consolidated trustee who has actually  
22       looked at all these claims, reviewed them, made  
23       determinations, is really best positioned to go to New York  
24       state. And the lesser amount of complications he has to  
25       explain, we think the better off it would be. If we were to

1 move on, Your Honor --

2 THE COURT: Let's not move on yet.

3 MS. BALL: Okay. Let's go back to the towers.

4 THE COURT: No, let's talk about what is it that  
5 you think the disclosure statement should say on this point,  
6 Mr. Stang?

7 MR. STANG: Your Honor, we're satisfied with the  
8 inserts that we put in. But there's something on this slide  
9 that, not this slide but the one before it, that raises a  
10 question in my mind that I don't think I was sensitive to  
11 before.

12 THE COURT: All right. Let's go back to the slide  
13 just before this one.

14 MR. STANG: It's the first paragraph of the  
15 debtor's response, and it says the fund is limited in making  
16 payments on account of claims, okay, and reimbursing only  
17 payments made to Arrowood claimants. So my question that I  
18 think creditors should know is if the trust is paid out to  
19 Arrowood claimants \$100,000, is that the limit on what the  
20 New York Guarantee Fund is required to pay? Because the  
21 limits are -- we know there's a cap of million dollars on  
22 its liability. But as a survivor, I've only been paid  
23 \$100,000 --

24 THE COURT: As a minimum payment.

25 MS. BALL: As a minimum.

1 THE COURT: With the ability to seek more.

2 MR. STANG: Right. But is the reimbursement -- is  
3 the obligation of the Guarantee Fund based on reimbursing  
4 the trust on what it's been paid --

5 MS. BALL: No --

6 MR. STANG: Well, this --

7 THE COURT: Hold on. Just a --

8 MS. BALL: This is -- excuse me.

9 THE COURT: Don't talk over each other.

10 MR. STANG: And this is why I'm asking.

11 THE COURT: Go ahead.

12 MR. STANG: It says reimbursing the payments made  
13 to the Arrowood claimants. This trust is going to pay  
14 whatever it's going to pay out to claimants and so my  
15 question is --

16 THE COURT: Would you be satisfied if it said NYS  
17 Security Fund is limited to making payments on account of  
18 claims insured by Arrowood and (i) reimbursing payments made  
19 to Arrowood claimants and (ii) any additional amounts?

20 MR. STANG: Yeah. I don't actually know where  
21 this language shows up, Your Honor, in the redline. But I  
22 was just curious as to what they thought (indiscernible) --

23 THE COURT: Okay. No, but does that -- don't take  
24 my words as being the exact, but I don't think there's a  
25 disagreement between you --

1 MS. BALL: No. I don't --

2 THE COURT: -- and Ms. Ball that, yes, if the  
3 trust has paid \$100,000, that has to be reimbursed. But if  
4 the claimant then succeeds in recovering more, that too is  
5 subject to reimbursement. That's the point.

6 MS. BALL: That's the point. That's the point.

7 MR. STANG: I (indiscernible) --

8 MS. BALL: That's an item (indiscernible) --

9 THE COURT: Make the -- you're not disagreeing?  
10 Okay.

11 MS. BALL: -- on that.

12 THE COURT: Just fix the language so that it's  
13 clear. Okay.

14 MS. BALL: We will do that.

15 MR. STANG: My other comment is we have been  
16 asking the debtor for months to explain why there have to be  
17 two trusts.

18 THE COURT: Okay.

19 MR. STANG: She's given an explanation. I don't  
20 think it's a disclosure statement issue anymore. Survivors  
21 just see this as another unnecessary expense.

22 THE COURT: Well, I think --

23 MR. STANG: They're entitled to do what they want  
24 --

25 THE COURT: Maybe I've been bamboozled, but I

1 think I understand why there's a necessity for two trusts  
2 because the insurance fund is not going to pay anything that  
3 isn't related to the Arrowood policies.

4 MR. STANG: I understand that that is true. I  
5 don't understand why there has to be a whole separate  
6 structure for it. But it is their plan.

7 THE COURT: Okay.

8 MR. STANG: They have to sell it.

9 THE COURT: Right. Okay.

10 MR. STANG: And we don't get it. I mean, that's  
11 (indiscernible) --

12 THE COURT: But you'll clarify the language so  
13 that it's reimbursement --

14 MS. BALL: Plus.

15 THE COURT: Plus

16 MS. BALL: Plus.

17 THE COURT: Okay.

18 MS. BALL: That is true, Your Honor.

19 THE COURT: Next point.

20 MS. BALL: Happy to do that. Your Honor, the next  
21 slide just highlighted the decision that we actually went  
22 over with you already, which we added to the disclosure  
23 statement. Here it is. We added that to try to clarify  
24 that the bankruptcy process works. Whether you can go back  
25 to state court, that may be more difficult. That may be

1 more difficult. They may have to wait.

2 THE COURT: Do you have a problem with this  
3 language, Mr. Stang?

4 MR. STANG: No.

5 THE COURT: Go ahead, Ms. Ball.

6 MS. BALL: We also want to share with, Your Honor,  
7 our proposed candidates for trustees. Each of these  
8 gentlemen has agreed that they would like this appointment.  
9 They feel they're qualified to do it. We do not have in our  
10 proposal a separate claim reviewer. Both these gentlemen  
11 have experience in mass tort, certainly have experience in a  
12 lot of claims. We have shared these names in the past with  
13 the committee. But this is not a negotiation mode. But  
14 that's where we are. We continue to search for neutrals,  
15 but that clearly is a process we would like to get more  
16 traction on with the vote before we go on.

17 The last point was the committee asked for a lot  
18 more disclosure about SEMCO and what I neglected, Your  
19 Honor, in highlighting is the committee also asked us to  
20 reflect that they brought a lawsuit. We did put that  
21 language in as well. It's not highlighted on this slide for  
22 you, but we have done it, and we have put in their exact  
23 language regarding how much to seek, how much the lawsuit  
24 sought. So I think we've resolved what they wanted to hear  
25 about SEMCO.

1           What I highlighted on this slide, Your Honor, is  
2           the countervailing view. So we have put in what they asked  
3           for about the lawsuit. This would be the cemetery's view.  
4           It's just another view of the same lawsuit. Lawsuits always  
5           have two sides. That's why we come to gentlemen like  
6           yourself.

7           THE COURT: Mr. Stang, on this point, are you  
8           satisfied with the debtor's proposed language?

9           MR. STANG: Yes, Your Honor.

10          THE COURT: Okay. Next point.

11          MS. BALL: All right. The next point was, Your  
12          Honor, I think we already went over it. It was the non-  
13          economic damages which was raised in our last hearing.

14          THE COURT: I was glad to see it taken out.

15          MS. BALL: That's all done.

16          THE COURT: Let me make clear. I raised it. It  
17          was a substantive point, and I thought it had to be in the  
18          plan and the disclosure statement. I didn't say you  
19          couldn't do it, but I've made the point. Anyway.

20          MS. BALL: Your Honor, in fairness, we took it  
21          from Boy Scouts.

22          THE COURT: Okay. It's done. It's done.

23          MS. BALL: We have adjusted.

24          THE COURT: Okay.

25          MS. BALL: Moving on, here's where we find



1 ourselves, Your Honor. And I do want to come back to the  
2 committee letter. We talked about the first one. I don't  
3 think we need to say anything more. The charts, Your Honor,  
4 those are the diocesan cases that have a confirmed plan. We  
5 believe it is relevant. We believe it's additional  
6 information.

7 THE COURT: You know, I asked both committee and  
8 the debtor a long time ago whether you had estimates of the  
9 value of the claims outside of bankruptcy. And each of you  
10 told me you had experts. Yes, you did. But you weren't  
11 revealing what those were. If those charts remain, then I  
12 think it needs to be supplemented with information about the  
13 value of claims. You're grimacing.

14 MS. BALL: Because we looked. There's  
15 (indiscernible) --

16 THE COURT: Let me tell you why. Because when  
17 people vote, they have to know what they're -- if you're  
18 going to do this, if you're going to head down the road of  
19 saying what people have recovered in other diocese cases,  
20 then I think they're also entitled to know what people have  
21 recovered in non-bankruptcy cases, in litigation.

22 MS. BALL: Oh, so you're talking about --

23 THE COURT: I'm saying, look, you've got these  
24 nice charts, color charts of what people have recovered.  
25 And if you want those charts in, then I'm going to want

1 information about, outside of bankruptcy, what recoveries  
2 have been for, including punitive damages because when  
3 people are being asked to vote, they may say, hey, look,  
4 I've got a really good claim against a parish that's got a  
5 lot of assets, and I'm better off outside of bankruptcy. So  
6 I'm going to vote against the plan. But if you're going to  
7 put a chart about what recoveries in bankruptcy have been,  
8 they're also entitled to know what the recoveries outside of  
9 bankruptcy have been. You may not want to do -- you may  
10 just decide to take the charts out.

11 MS. BALL: Your Honor, we will look into that.  
12 Your point is understood.

13 THE COURT: Mr. Stang?

14 MR. STANG: Your Honor, it's a point well taken.  
15 These charts are about as relevant as anything I can think  
16 of.

17 THE COURT: Well, yes and no. I mean, look --

18 MR. STANG: It has nothing to do with this case  
19 and whether creditors should vote based on the assets and  
20 liabilities of this case. Fairbanks, Alaska is not a basis  
21 for comparing Long Island, New York. Nor is Davenport. I'm  
22 not going to repeat Judge Abbot's comment about we have a  
23 view of the Pacific.

24 THE COURT: Okay. Okay. All right.

25 MR. STANG: They are totally different situations.

1 THE COURT: Look, I don't have a list of what the  
2 recoveries outside of bankruptcy, what jury verdicts have  
3 been. There's been some enormous verdicts.

4 MR. STANG: There's a verdict in California  
5 against a school district for two people that I believe was  
6 over under \$130 million.

7 THE COURT: Well, did it survive?

8 MR. STANG: I don't know. But right now it's out  
9 there. So are we going to start mincing the charts about  
10 (indiscernible) --

11 THE COURT: Let me make this point. I don't think  
12 -- I think including just the chart that you included is  
13 misleading. And I don't think you really want to go down  
14 the road of having to put together a chart comparing what  
15 judgments have been. Whether it's recovered or not is a  
16 different issue -- have been outside of bankruptcy.

17 MR. STANG: Your Honor, I'll say the Jesuits,  
18 Oregon province filed some (indiscernible). It covered five  
19 states. Alaska was one of those states. The Diocese of  
20 Fairbanks filed bankruptcy. There was almost 100 percent  
21 overlap between the people who filed claims in Fairbanks and  
22 the ones that filed in the Jesuit case. Spokane, part of  
23 the Oregon province. Montana cases, part of the Oregon  
24 province. Breaking them down separately is totally --

25 THE COURT: But I --

1 MR. STANG: It is such a false comparison, it gets  
2 to the point of being misleading.

3 THE COURT: I understand your point, and what I'm  
4 saying is I'll add to the false comparison by saying, what  
5 was the verdict in Westchester County?

6 MS. BALL: \$28 million (indiscernible).

7 THE COURT: Okay, and what was the verdict in --

8 MS. BALL: Monroe?

9 THE COURT: Monroe.

10 MS. BALL: Ninety-five.

11 THE COURT: Okay. Do you really -- I mean, it's  
12 still --

13 MS. BALL: Your point, we hear.

14 THE COURT: Okay.

15 MS. STANG: (indiscernible) are we going to do New  
16 York? Are we going to do (indiscernible) --

17 THE COURT: Stop. We're going to take it out is  
18 what we're going to do. We're taking it out. It's either  
19 coming out -- I hear Ms. Ball saying they're going to take  
20 it out, because otherwise there's going to be a more  
21 fulsome, irrelevant comparison to judgments elsewhere.  
22 Okay. You're taking it out or you want to --

23 MS. BALL: I have homework to do, but I hear you.

24 THE COURT: Or do you want to fight this battle?

25 MS. BALL: It's a question of whether we add more

1 or it comes out. And the more, in my view, may be equally  
2 misleading. And, of course, I do want to remind Mr. Stang  
3 that the orders that are present here and (indiscernible)  
4 are not being released. So people can continue to chase  
5 them.

6 THE COURT: Okay.

7 MS. BALL: But I hear your point.

8 THE COURT: I'm not ruling yet. If you're going  
9 to stand on your position that the charts go in, I am going  
10 to insist that it include information on --

11 MS. BALL: Verdicts.

12 THE COURT: -- on verdicts. Okay. You'll let me  
13 know.

14 MS. BALL: We will, Your Honor.

15 THE COURT: When we finish today --

16 MS. BALL: The difficulty I'm having is the vast  
17 majority of cases as came out in Camden are settlement  
18 values. But the biggest difference, which I'm surprised Mr.  
19 Stang hasn't raised, all the cases in those charts had  
20 insurance (indiscernible) which the charts show. This whole  
21 plan is structured around trying to get to that point. But  
22 that leaves us with the third issue, Your Honor, on  
23 disclosure.

24 THE COURT: And I -- you know, let me flip it.  
25 I've got some other issues that haven't been addressed.

1 MR. STANG: I have a few too.

2 THE COURT: I bet you do. I bet you do.

3 MS. BALL: I think we did try to cover everything  
4 that committee redline shared with us.

5 THE COURT: Let me just -- stop. Some time ago,  
6 multiple hearings ago, without ruling, I said that -- words  
7 to the effect that the parishes should have to disclose  
8 their contributions. Explain to me why you don't think the  
9 parishes should have to disclose what they're -- you've said  
10 all the parishes are contributing and they're jointly and  
11 severally liable. Tell me why the parishes shouldn't have  
12 to disclose what each parish is contributing.

13 MS. BALL: Your Honor, in our minds, it's a  
14 question of when does that have to happen. Purdue says it  
15 has to happen. I'm not -- but we think it's part of our  
16 burden on confirmation. Let's step back, Your Honor, just a  
17 minute. If they vote in favor of this plan, they know what  
18 they're getting. If they choose to litigate, they know what  
19 every parish has, at least in terms of its current assets  
20 and the location of its real estate. So it seems that it is  
21 not relevant to the vote. But I understand it may be  
22 relevant on the Purdue factors.

23 But let me just share Judge Kressel's view. The  
24 trouble that we're having -- the trouble that we're having  
25 with this, and I am reminded of his decision in the St. Paul

1 case. I don't know if Your Honor is familiar with it. It's  
2 reported at 58 B.R. 821 (sic).

3 THE COURT: Let me -- hold on. I'm not. 58 B.R.  
4 821. Okay.

5 MS. BALL: It was a decision where he denied  
6 confirmation of a plan. And let me share with you what he  
7 said. He said, while the creditors' committee seeks  
8 retribution for the wrong suffered by the victims, none of  
9 those who committed the abuse in the first place or  
10 exacerbated it in the second place will suffer. The  
11 financial cost of compensation falls not on any of these  
12 people, but on a completely different group. The cost will  
13 fall on Catholic schools and their parents, students of  
14 Catholic schools and their parents. It will fall on  
15 thousands of parishioners, the benefits of charity. And he  
16 goes on to say, this case is about people. We are asking  
17 you, Your Honor -- and of course, as a footnote, Judge  
18 Kessel was one of the first to challenge high contingency  
19 fees. But returning to our case --

20 THE COURT: But not the only one who has.

21 MS. BALL: Not at all, Your Honor. It seems to be  
22 a trend. Judge Kinsella even suggested a fee examiner. We  
23 are asking you, and it really is for the benefit of  
24 survivors, to let us maintain the ability to marshal funding  
25 for the resolution of this harm as part of an ongoing

1 mission. The way parishes are sharing this reflects a sense  
2 of moral responsibility. Rather than subjecting the  
3 parishes and, hand in hand with the parishes, the survivors,  
4 it's a great difficulty in raising this money. If we are  
5 moving forward, if we are heading towards confirmation, then  
6 parishes, their students, everyone has a sense of purpose to  
7 get this done and to disclose whatever is necessary to get  
8 there because you're seeing an end to it.

9 THE COURT: So let me just -- I just want to be  
10 sure. So you're giving as the first reason to not require  
11 disclosure of each parish contribution --

12 MS. BALL: At this time.

13 THE COURT: -- maintaining the ability to marshal  
14 funds by not disclosing each parish contribution.

15 MS. BALL: Your Honor, because many of them are  
16 not responsible at all. There could be an absolute outrage  
17 among those parishes and those Catholic schools. Why are we  
18 doing that if we're never going forward?

19 THE COURT: Give me -- what's the next -- are  
20 there more reasons?

21 MS. BALL: Yes, Your Honor. We are going to ask  
22 you, because, as you know, this is a plan where funding is a  
23 mission shared by all parishes, really, without regard to  
24 legal liability and managing the inability in particular,  
25 and if you studied our exhibit, roughly half of the parishes



1 to fund anything, it's being approached not as a question of  
2 legal responsibility. It's being approached as part of  
3 wanting to end this terrible chapter. If we find that our  
4 creditors have elected the world of chaos -- why don't you  
5 go to the next slide -- they have elected -- then we're  
6 really talking about legal responsibility. And the paradigm  
7 is totally different at the parish level. There will be  
8 survivors --

9 THE COURT: If I understand what you're saying is  
10 one of the concerns you're expressing is backlash against  
11 parishes that are contributing, that have few, if any --

12 MS. BALL: Or none.

13 THE COURT: Or none, abuse claims.

14 MS. BALL: And they will be -- they're reaching  
15 into their pockets at the expense -- and those pockets have  
16 to be refilled by parishes to keep schools open.  
17 Parishioners. Why are we creating that blowback when we  
18 don't know if we are going ahead with this shared mission?  
19 They may choose to go to the legally responsible mission, in  
20 which case, half the parishes will likely not be at risk.  
21 So why are we doing it? We understand Purdue, Your Honor.

22 THE COURT: Okay. So when is it that you think  
23 you would be required to disclose that information?

24 MS. BALL: As part of moving forward to confirm a  
25 plan.

1 THE COURT: If you get the votes and it moves to  
2 confirmation.

3 MS. BALL: If we go to confirm a plan, it will  
4 have to be disclosed. It's our burden, we think, at that  
5 point. We think Purdue says, and you have to assess fair,  
6 that that would be part of it. Then that's a burden we'll  
7 have to meet. But we are urging you not to level this  
8 dissension unnecessarily at this time.

9 THE COURT: Remind me that the aggregate  
10 contribution of the parishes is how much.

11 MS. BALL: By or on behalf of the parishes is  
12 \$78.1 million and Catholic Charities is (indiscernible) --

13 THE COURT: I'm not saying that I'm with you on  
14 this point. Are you prepared to disclose -- I mean, if I  
15 order it in the order, you'll do it or not, but if you  
16 don't, then it's a different problem. But range, median,  
17 something that would disclose the contributions, the \$78.1  
18 million reflects contributions from parishes in the range of  
19 X to Y, without disclosing at this stage how much each  
20 parish is disclosing.

21 MS. BALL: We could do that. It may be a little  
22 complicated because of the sharing that we're forcing on  
23 them for those liability. But let us think about doing  
24 something like that, Your Honor.

25 THE COURT: I haven't heard Mr. Stang yet. I'm

1 exploring. I'm not --

2 MS. BALL: This is --

3 THE COURT: So you're just --

4 MS. BALL: It's more from parishes.

5 THE COURT: If you got to the point of the votes  
6 to confirm, the explosion from parishioners doesn't occur  
7 until the information you know you're going to have to  
8 disclose.

9 MS. BALL: But Judge, let me say it's a different  
10 circumstance. We would not be presuming that, because we're  
11 prepared to move forward with confirmation, that you would  
12 do it. But we would all be, everyone on the substantial  
13 contribution side, rowing in the same direction to get to  
14 the end and it would not have the same impact at all.

15 THE COURT: I'm going to hear from -- but go on.  
16 I'm sure I'm going to hear from Mr. Stang on this point.

17 MS. BALL: Your Honor, the last --

18 THE COURT: I mean, look, I made those statements  
19 because at that point in the case, you had not publicly  
20 disclosed --

21 MS. BALL: Their financials.

22 THE COURT: -- their assets, their financials.  
23 Okay. That's now in your exhibits.

24 MS. BALL: That is there.

25 THE COURT: So I expressed the view that they

1     should be required to disclose what they're contributing,  
2     and I also talked about what their assets are. You've now  
3     disclosed their assets. I understand Mr. Stang is still  
4     raising the issue about real estate values. I think even  
5     when I raised it, I recognized that I don't know who's got  
6     appraisals, and book value is not a true measure. Whatever.  
7     But now I can see. I looked at what each parish has and how  
8     much cash, what real estate, et cetera. So I'm reserving on  
9     this point. I do want to hear from Mr. Stang.

10           MS. BALL: I wanted to be consistent, Your Honor.  
11     The parish financial information is critical to the choice  
12     that they're making because if they revert from a plan  
13     choice, which is, from our point of view, a collective  
14     global solution to a horrible problem, to, no, we'd rather  
15     sue, and it's legal liability, they have a lot of the  
16     information that would educate that choice.

17           THE COURT: Go on to your next point.

18           MS. BALL: Okay.

19           THE COURT: I understand your position. I'm not  
20     ruling. I want to hear -- I mean, look, from prior comments  
21     in the case, I was where Mr. Stang is on this issue. Okay.  
22     But I understand you're raising it as a question of timing.

23           MS. BALL: We are, Your Honor. And the different  
24     motive and impact it will have depending on that timing.

25           THE COURT: Okay. Next point?

1 MS. BALL: The next point that we wanted to make,  
2 Your Honor, it's kind of the last one. Just as a reminder,  
3 the committee letter which was filed yesterday, I'm sure  
4 Your Honor has seen it.

5 THE COURT: I've read it. I have it here.

6 MS. BALL: But not to go back over the complicated  
7 charts earlier in this year, but here we are, Judge. The  
8 smaller firms, the pro se, those are the ones that will be  
9 left behind in the choice. Large state court counsel, if  
10 you look to those charts, you can see it's not an issue for  
11 them. These are the ones that we keep hearing about control  
12 the vote, in many other cases, very critical in controlling  
13 the trusts.

14 But at least now in their letter in the very back  
15 end, they acknowledge there's a risk, a big risk, and what  
16 we find very compelling. Not only the risk for those who  
17 don't have a CVA, but when you think about the trial timing,  
18 Your Honor, the timing of the 50 that are active being  
19 first, the 200 new diocese cases, two-thirds of which are  
20 Arrowood, so let's say one-third of those being filed next,  
21 67, and then all the Arrowood cases behind that, it has to  
22 be true that there are survivors that are really not going  
23 to get anything.

24 THE COURT: Here's what I want to happen, because  
25 I just got this. I'm going to give you, I don't know, a day

1 or two to file a response with a blackline. Look, I made  
2 clear before I am going to permit and require that a  
3 committee letter be attached to the disclosure statement.  
4 Okay. You've already put within the disclosure statement  
5 many of the --

6 MS. BALL: Their position as we understood it.

7 THE COURT: -- positions that (indiscernible).

8 But I am going to -- the committee's view is important.

9 They're the fiduciary for the unsecured creditor.

10 MS. BALL: For everyone.

11 THE COURT: Okay, and, I mean, I won't go through  
12 it now. I had some problems with some things that they  
13 stuck into this letter. I'm sure they knew that when they  
14 sent it in. Put it right up front, basically. Okay. But  
15 this just came in. I want to give you a chance to mark it  
16 up, if you will. Okay.

17 MS. BALL: Thank you, Your Honor.

18 THE COURT: Just as examples, the diocese  
19 "headlines," the diocese offer or proposal of a settlement  
20 of \$200 million grossly overstates or how much survivors  
21 will get out of settlement. Take the word headlines out. I  
22 mean, it's just, you know, you're --

23 MR. STANG: Your Honor? Your Honor, we'll wait to  
24 see it. But I have to tell you, when you say the number is  
25 200, but you admit on Page 12 of your disclosure

1 (indiscernible) --

2 THE COURT: I know you do.

3 MR. STANG: -- that it's 170, that's a headline.

4 THE COURT: Okay.

5 MR. STANG: That's a headline.

6 THE COURT: Just put the facts in. Okay?

7 MR. STANG: Well, their --

8 THE COURT: No, stop.

9 MR. STANG: Their disclosure statement isn't  
10 entirely facts. They have lots of opinion in their  
11 disclosure statement.

12 THE COURT: Look, I'm letting you put in a letter.  
13 Okay?

14 MR. STANG: I'm not --

15 THE COURT: Tone it down, okay?

16 MR. STANG: I'd also ask, Your Honor, that it be a  
17 freestanding letter and not attached to the back of the  
18 (indiscernible) disclosure statement.

19 THE COURT: Where do you want it?

20 MR. STANG: In the solicitation package as a  
21 separate piece of paper, not attached as an exhibit to  
22 (indiscernible) --

23 THE COURT: Okay. I'll let you put -- I'll  
24 require it go in the solicitation package. Okay? You'll  
25 get your wish. Would you please take out the diocese is not

1 doing anything to improve its policies and procedures to  
2 protect children? I mean, come on.

3 MR. STANG: The diocese's plan does not have a  
4 word regarding child protection. Not a word. It doesn't  
5 have a -- this is written (indiscernible) --

6 THE COURT: I will just tell you that's coming  
7 out. That bullet point is coming out.

8 MR. STANG: Your Honor --

9 THE COURT: Have you taken discovery? Are there -  
10 - can I ask you this? Are there postpetition lawsuits  
11 against parishes that have been filed for postpetition abuse  
12 claims against the parishes?

13 MR. STANG: I don't know.

14 MS. BALL: There are, Your Honor. And the  
15 policies and protocols are on the diocese website.

16 MR. STANG: Your Honor, there's not a word in that  
17 plan or disclosure statement about protecting children.  
18 They don't even talk about what they're doing, much less  
19 what they will do. Creditors need to know that.

20 THE COURT: That bullet point is coming out. I  
21 will not approve a letter with that bullet point in it.

22 MR. STANG: Your Honor, I want you to know that  
23 when we talk to committees, this one or any of them, when  
24 they talk about what is most important to them, it is the  
25 protection of children. There's not a word in this, in all



1 of this paper about what they do to protect children. Not a  
2 word. People want to know that.

3 THE COURT: I will review the diocese's markup of  
4 the letter, and I'll resolve it without a further hearing.

5 MS. BALL: Your Honor, (indiscernible), we will  
6 address it, but of course, it's on the website, Your Honor.  
7 It has been. It has been.

8 THE COURT: Fine.

9 MS. DINE: Your Honor, if I may (indiscernible) --

10 THE COURT: Ms. Dine, go ahead.

11 MS. DINE: Sorry. Karen Dine, for (indiscernible)  
12 --

13 THE COURT: I think we're not picking you up on  
14 the microphone. Just move that microphone. You can stay  
15 there.

16 MS. DINE: Your Honor, and I don't know what the  
17 timing of things is going to be based on the outcome of this  
18 hearing, but if there is time, just as we have provided  
19 comments in advance of filing anything with the court, I  
20 would ask that the debtor give us their comments first, that  
21 we have a chance to consider them and make any changes.

22 THE COURT: Fine.

23 MS. BALL: Of course, Your Honor.

24 THE COURT: Fine. Maybe you'll obviate -- you'll  
25 agree on what will be in, what will be out (indiscernible).

1 Okay. That would be much preferred.

2 MS. BALL: Your Honor, we have one other area we  
3 haven't covered today, but I don't think we're getting that  
4 far today. But I would share with Your Honor, and we're  
5 prepared to talk --

6 THE COURT: There's a lot of day left.

7 MS. BALL: (indiscernible)

8 THE COURT: Not mine, but, you know --

9 MS. BALL: Well, then in that case, I'll be very  
10 quick about it. There's a lot to be said about the  
11 solicitation and the agreements that have been reached. I  
12 don't know if Your Honor wants to hear that, the agreements  
13 there. Disagreements are very narrow.

14 THE COURT: Let me -- before you do that, finish  
15 up. Are there any other disclosure statement issues you  
16 want to raise?

17 MS. BALL: No, Your Honor. I think I've covered  
18 them.

19 THE COURT: Okay. Let me raise a few of my own.

20 MS. BALL: Thank you, Your Honor.

21 THE COURT: All right. The second committee  
22 objection, Exhibit A at Page 2, the bullet point is  
23 disclosures in the executive summary regarding "whether the  
24 litigation rights, including forum/venue selection or right  
25 to jury trial will be impacted or whether parties retain all

1 existing litigation rights." That's quote from their  
2 objection.

3 MS. BALL: Yes, Your Honor. We had it on the  
4 screen, you may recall.

5 THE COURT: Okay, and your response to that?

6 MS. BALL: Our response to that is that Section 8  
7 of the trust distribution procedure says the bankruptcy  
8 piece goes forward first. Thereafter, the parties will  
9 confer to restart their litigation in the forum they  
10 originally chose with the rules of that forum.

11 THE COURT: Could you put it in the disclosure  
12 statement?

13 MS. BALL: We did, Your Honor. We put it in a  
14 footnote. But if you'd like it in the body, we will.

15 THE COURT: Mr. Stang or Ms. Dine, do you want it  
16 in the text or do you want it in a footnote? I thought the  
17 point was a valid point.

18 MS. BALL: That's why we shared it with you.

19 MS. DINE: Your Honor, again, Karen Dine, on  
20 behalf of the committee. I think we think it should be in  
21 the text. And of course, one of the issues we're getting at  
22 is whether there may be remand or other venue issues that  
23 are raised in those litigations (indiscernible) --

24 THE COURT: Without adding more than a paragraph  
25 or two at the most, the point you raised in the second

1 objection is a valid one, and I think you want it in the  
2 text, it's a long document, you'll work it out and put it in  
3 the text.

4 Look, Ms. Ball, we've gone through a bunch of  
5 points today. There are changes that have been agreed to be  
6 made. I'm expecting to see a further -- a new redline,  
7 blackline --

8 MS. BALL: I understand, Your Honor.

9 THE COURT: -- against what I have.

10 MS. BALL: And I'm assuming you're expecting us to  
11 try to work it out first.

12 THE COURT: I do.

13 MS. BALL: Of course.

14 THE COURT: I do. This you want to be able to  
15 work out. There are bigger fish to fry than this. It's  
16 important.

17 MS. BALL: One more thing. One more thing.

18 THE COURT: Okay. In that same second committee  
19 objection, they raised the point, the executive summary  
20 should address the impact of the Arrowood liquidation,  
21 including impact of the Arrowood liquidation on timing for  
22 resolution of all litigating abuse claims is basically the  
23 point. Ms. Dine, maybe you could tell me. What is it that  
24 you want the disclosure statement to say?

25 MS. DINE: So Your Honor, particularly as it goes

1 to the litigating abuse claims, given that no litigating  
2 abuse claim can receive any recovery until after the  
3 resolution of all litigating abuse claims, I think it's  
4 important that there be very clear disclosure about just how  
5 long (indiscernible) --

6 THE COURT: Ms. Ball, are you prepared to put  
7 that, work out the language to put in to do that?

8 MS. BALL: Yes, Yes, Your Honor.

9 THE COURT: Okay. You've won on that point too.

10 MS. BALL: Particularly true with the Arrowood  
11 trust, Karen?

12 MS. DINE: (indiscernible)

13 THE COURT: That same second committee objection,  
14 you wanted additional language specifying, one, the total  
15 amount of minimum consideration payments to be made; two,  
16 the amount reserved for trust expenses; and three, you want  
17 clarity over how judgments resulting from the independent  
18 review option will be paid.

19 MR. STANG: Well, in particular, Your Honor --

20 THE COURT: Mr. Stang, just identify yourself for  
21 the record.

22 MR. STANG: James Stang, for the committee. More  
23 quantification is better, but one of the things they don't  
24 discuss is, except in I think it's a footnote, that the  
25 trust -- the trust that has the LMI/Interstate policies may

1 have to reserve for self-insured retention up to \$100,000  
2 per claim. And there's no discussion of that additional  
3 reserve at all in the prospect that there are going to be  
4 additional distributions beyond the minimum consideration.  
5 When you look at the draft with all --

6 THE COURT: Let me -- Ms. Ball, are you prepared  
7 to try and add language to the disclosure statement to --

8 MS. BALL: We're prepared to try and work that one  
9 out, Your Honor.

10 THE COURT: You want to be able to work it out.  
11 Let me give you the next one. They want additional language  
12 clarifying the timing of distributions from the litigation  
13 of the use claim supp fund and making clear that the Debtor  
14 cannot predict how many litigating abuse claims there will  
15 be or when resolution of such claims will be completed.

16 MS. BALL: In terms of when resolution will be  
17 completed, we will commit to work out language.

18 THE COURT: Okay. You ought to be able to work  
19 out the language. That same objection, they want inclusion  
20 of some foreseeable hypotheticals like those the Committee  
21 suggested, which should assist a holder of an abuse claim in  
22 understanding how his or her claim may be treated under the  
23 plan. I thought you added some hypotheticals.

24 Is this still an issue, Ms. Dine or Mr. Stang?  
25 Because they did add hypotheticals.

1 MS. DINE: They did add a further description  
2 particularly of the IRO process. So I think at this point  
3 we are not going to press on additional hypotheticals.

4 THE COURT: Okay, fine. Then that's resolved. So  
5 with respect to parish real estate.

6 MS. DINE: I'm sorry, Your Honor, if I may.

7 THE COURT: Go ahead, Ms. Dine.

8 MS. DINE: As I sit here thinking about the  
9 discussion of litigating abuse claims, it may be helpful,  
10 particularly given this point about retaining their rights  
11 in litigation, to have a hypothetical if you are this kind  
12 of claimant, this is how --

13 THE COURT: You've got a hypothetical. I'm sure  
14 you'll work it out to put it in. Okay?

15 MS. BALL: I think we can do that, Your Honor.

16 THE COURT: Let me just -- with respect to the  
17 parish real estate, have you confirmed -- have you inquired  
18 and determined that parishes do or don't have appraisals of  
19 their real property?

20 MS. BALL: We have asked every parish, and there  
21 are no appraisals that we are aware of.

22 THE COURT: Okay. And they've all responded to  
23 the inquiry?

24 MS. BALL: There are two. And they're in the  
25 exhibit.

1 THE COURT: Okay. And I saw that. But I just  
2 want --

3 MS. BALL: But that's all.

4 THE COURT: What wasn't clear to me is that you've  
5 asked all whether they have any, and they've said other than  
6 the two, no.

7 MS. BALL: No.

8 MR. STANG: We're done with the real estate.

9 THE COURT: Okay, we're done with the real estate.  
10 I do want to hear Mr. Stang in a few minutes on the  
11 contributions of each parish. So we'll get to that in a  
12 second.

13 I want to hear -- on Page 30 of the disclosure  
14 statement, I think it's still at Page 30, there is the  
15 following sentence. "Since the Debtor plan of  
16 reorganization allocates abuse claims into two trusts, abuse  
17 claimants may receive different distributions depending on  
18 many factors, including but not limited to the nature of  
19 their claim, whether they are a litigating abuse claim or a  
20 settling abuse claim, and which trust their respective claim  
21 is allocated to."

22 It seems to me that that disclaimer, if you will,  
23 should be included as a risk factor or otherwise included in  
24 the executive summary of the amended disclosure statement.

25 MS. BALL: We can do that, Your Honor.



1           THE COURT: I think the Committee has -- whether  
2           that's worked out with Mr. Stang and Ms. Dine where and what  
3           language to put -- I think --

4           MS. BALL: It's possible, I agree.

5           THE COURT: You can't control that. Neither of  
6           you can control it. It may happen, it may not happen. I  
7           don't know. But it's a risk. Okay?

8           Ms. Dine, would you be satisfied with working out  
9           something on that point?

10          MS. DINE: Yes, Your Honor. We just -- it's about  
11          disclosure.

12          THE COURT: I think that there needs to be in an  
13          appropriate place a risk factor of parish insolvency.  
14          Absent a confirmed plan, if parishes go to trial, they  
15          potentially risk significant plumes of damage awards. I  
16          mean, this is a two-edged sword. Many abuse claimants may  
17          be left high and dry. They may have good claims, but if  
18          somebody recovers a big judgement first and includes  
19          putative damages. So I think there needs to be a couple of  
20          sentences added as a risk factor in the event of parish  
21          insolvency. And outside of the confirmed plan, claimants  
22          may seek actual and putative damages. I (indiscernible)  
23          language, but I think you ought to be able to -- I think  
24          it's a real risk.

25          MS. BALL: Well, Your Honor, it's also a

1 consideration that most parishes at this point would be  
2 eligible for Subchapter V with a contingent debt. So that  
3 risk is probably more prevalent than you suggest.

4 THE COURT: So this issue about the liquidation  
5 analysis. The liquidation analysis presently estimates  
6 "maximum of approximately \$46 million --" I'll add the word  
7 will, "-- be available to general unsecured creditors of  
8 which approximately \$15 million to \$43 million --" I'll add  
9 again will be, available to abuse claimants depending on the  
10 amount of allowed abuse claims. In reaching that  
11 conclusion, the Debtor provide that "value of the Debtor's  
12 plan for purposes of this liquidation analysis has been  
13 adjusted downward to approximately \$97 million based on  
14 excluding the contributions from entities other than the  
15 Debtor but does not include the value the Debtor expects to  
16 recover from avoidance actions." That ends the quote.

17 The question I have is does the liquidation  
18 analysis fail to appropriately capture the amended plan as  
19 presently proposed and fails to offer creditors a proper  
20 comparison between the plan and what their potential  
21 recoveries would be in a hypothetical Chapter 7 liquidation.  
22 It's the initial Committee objection at Paragraph 21. Are  
23 you still pressing that objection, Ms. Dine?

24 MS. DINE: So, Your Honor, our objection to the  
25 liquidation analysis is that it seemed to us to be a non-

1 apples-to-apples comparison and, again, not including the  
2 information regarding the parishes and the other people  
3 contributing. And then to sort of take that out of the  
4 analysis but then not have any analysis of what the  
5 recoveries might be, the recoveries from those third parties  
6 that this analysis as a disclosure matter is not  
7 particularly helpful. At the end of the day it may be more  
8 of a confirmation issue in terms of a best interest test.  
9 But --

10 THE COURT: Let me ask -- that raises the  
11 question. Are you satisfied with the disclosure statement  
12 and you want to reserve the issue for confirmation?

13 MS. DINE: If the parish contributions are being  
14 disclosed now, I think that we would be willing -- and so  
15 that's clear in the disclosure statement. And so even if  
16 they cannot apply it for the liquidation analysis, they can  
17 have some sense of what is available to them.

18 THE COURT: And if I wind up ruling that I'll  
19 require them to not disclose each parish contribution, but  
20 the range amounts of parish contributions?

21 MS. DINE: Again, Your Honor, I think we think as  
22 a disclosure issue, it would be the liquidation analysis  
23 should provide some analysis of the recoveries from third  
24 parties that are available if they were being released. So  
25 I think that that was really a fundamental problem with the

1 liquidation analysis.

2 MS. BALL: Your Honor, if I may.

3 THE COURT: Go ahead.

4 MS. BALL: This is an issue that Judge Silverstein  
5 dealt with in Boy Scouts. The debate really got off and  
6 running with the Quigley case here in New York with Judge  
7 Bernstein. That took a very specific detour in Ditech with  
8 Judge Garrity on the issue of, well, you have to sell under  
9 363 so you need to apply those rules.

10 The most recent iteration of this was really in  
11 Boy Scouts with Judge Silverstein. And her reaction to --  
12 it's about the Calbert disclosure about the assets. It's  
13 about the Calbert disclosure about the assets of third  
14 parties so that people will know to make their choice  
15 whether to keep their lawsuits alive.

16 That was how she thought this issue should be  
17 resolved. And she actually ruled on it, and I can give Your  
18 Honor the cites. I didn't think it was coming up today.  
19 And she was affirmed specifically on that point.

20 THE COURT: You now have an exhibit that shows  
21 cash on hand, real property. So more or less the value of  
22 the parishes is now publicly disclosed. I'm right about  
23 that?

24 MS. BALL: Certainly the current assets and  
25 liabilities, Your Honor.

1 MS. DINE: Your Honor, if I may.

2 THE COURT: Go ahead, Ms. Dine.

3 MS. DINE: Again, Karen Dine on behalf of the  
4 Committee. I think again a distinction here from BSA and  
5 other cases is while they have taken the dismissal toggle  
6 off of the table, they are still presenting this as if you  
7 are deciding between the dismissal of this case and  
8 receiving these recoveries. And that is part of why we have  
9 emphasized the importance of this information.

10 THE COURT: I can't stop -- I won't stop them if  
11 they decide to move to dismiss. I mean, Ms. Ball has  
12 expressed that they've run out of money to keep this case  
13 alive absent a confirmed plan. That's her decision and her  
14 client's decision, not my decision.

15 MS. DINE: No, understood, Your Honor.

16 THE COURT: I've said I won't sua sponte dismiss  
17 this case.

18 MS. DINE: And all I am saying is if what you are  
19 saying to the abuse claimants is here is your choice, that  
20 if you do not accept this plan, you may face dismissal of  
21 the case, that the information about what the recovery may  
22 be from those third parties in the event of dismissal is  
23 more important as a disclosure issue than say Boy Scouts.  
24 That was really the point.

25 THE COURT: So they've now disclosed the assets.

1 Are you saying the liquidation analysis should include one  
2 or several sentences that explain in the event of dismissal  
3 of the case, upon liquidation this is, you know, what you  
4 may recover and you still have your claims against the  
5 parishes. Their information has now been disclosed in  
6 exhibit-so-and-so. Does that resolve -- go ahead, Mr.  
7 Stang.

8 MR. STANG: James Stang for the Committee. I  
9 think we pointed this out at the last hearing. While they  
10 have indicated how much of their cash is restricted, they  
11 have not indicated how much of their investments, or I think  
12 there's a category in the chart of other assets  
13 unrestricted, nor have they said in the real estate chart,  
14 while they have indicated the use, whether they think those  
15 assets are restricted by donative intent or through some  
16 religious freedom defense. And so it is true that they have  
17 made disclosures regarding their financial condition.

18 When it comes to the ability to execute on a  
19 judgement, there are still deficiencies that we pointed out  
20 previously.

21 THE COURT: So add a sentence that yes, they  
22 disclosed and we add a sentence that parishes have disclosed  
23 aggregate assets of X. You know, it may be delaying.  
24 People can see which parish has which assets. But put the  
25 caveat that you've just given.

1           So I guess where I come out, I agree that the  
2           liquidation analysis needs to be supplemented to address the  
3           concerns that you and Ms. Dine have raised. I'm probably  
4           not prepared to go quite as far as you want. But I do think  
5           -- I mean, I've gone through all of your objections and I've  
6           tried to pick up the ones that, yes, I agree there needs to  
7           be changes for. Okay? So could you try and work out the --  
8           this case is not going to rise or fall on this language.  
9           That's just -- okay?

10           MS. BALL: We are committed to do so, Your Honor.

11           THE COURT: All right. Let me flip back. I've  
12           got a long memo. I think between what you covered and what  
13           I've raised since I think -- and what I'm going to propose  
14           is -- there are some pro se parties who have asked to be  
15           heard. And I'll hear them now. Because we're going to take  
16           a lunch break and come back and I'm going to hear Mr. Stang.  
17           But if any of the pro se parties want to be heard now, I  
18           want to hear them. Okay? Because I was told that there  
19           were several who were coming today who did want to be heard.  
20           And I don't know whether they're on Zoom or in the  
21           courtroom. But if there's anybody other than the lawyers  
22           sitting at the front table who wants to be heard, I want to  
23           hear you.

24           So let me ask first in the courtroom, is there  
25           anybody in the courtroom who wants to be heard? No.

1           Is there anybody on Zoom who wishes to be heard  
2           about the disclosure statement?

3           Deanna -- and there is a hand raise function on  
4           Zoom. I can't see it in the courtroom, but my courtroom  
5           deputy does see it. So if anybody wishes to be heard,  
6           either unmute and speak or do the hand raise function and my  
7           courtroom deputy will see it and she'll alert me to it.  
8           It's important, very important to me that I hear from  
9           anybody who wants to be heard with respect to what's  
10          happening in this case and whether a disclosure statement is  
11          ultimately approved.

12          Deanna, is anybody raising a hand?

13          CLERK: I do not see any raised hands, Judge.

14          THE COURT: Okay. And just one more time, is  
15          there anybody in the courtroom who I've not hear from yet  
16          who wants to be heard? All right.

17          So it's 12:36. Tell me how long you want for  
18          lunch, Mr. Stang. You're up next. You and Ms. Dine, or  
19          I'll let you tag-team.

20          MR. STANG: 1:30, Your Honor?

21          THE COURT: Okay. Is that all right? We'll  
22          resume at 1:30. Look, I basically have said I'm not ruling  
23          today. There needs to be further work done on the  
24          disclosure statement. I wish you would all come to your  
25          senses. Mr. Zipes?



1 MR. ZIPES: Your Honor, I don't want to add to  
2 this, the time here. But we have one specific issue that we  
3 did want to raise as well.

4 THE COURT: Go ahead. What is it?

5 MR. ZIPES: And we could wait until the end or --

6 THE COURT: Please, go ahead and do it now.

7 MR. ZIPES: Your Honor, I think our one issue that  
8 has not been specifically addressed by the Debtor or the  
9 Committee is Judge Mastando's decision in Luftig and  
10 specifically his finding that he couldn't have a final  
11 ruling on Purdue-type issues and --

12 THE COURT: On what?

13 MR. ZIPES: On Purdue-type issues and that he  
14 could only issue findings of fact and conclusions of law for  
15 the district court as a risk factor that could delay the  
16 confirmation of the plan. And we think it's important to --

17 THE COURT: I think you can come up with some  
18 language that's not going to be disputed. Thank you, Mr.  
19 Zipes. It is a risk factor. All right.

20 We'll come back at 1:30.

21 MR. ZIPES: Your Honor, can I just -- I'm sorry,  
22 on a scheduling matter. I have something at 2:00 and I'm  
23 going to get coverage for that. But I think that --

24 THE COURT: I have something at 2:00 as well, but.

25 MR. ZIPES: But I do believe that we made almost

1 all our points, Your Honor, just for the Court's reference.

2 THE COURT: All right. You know, I'll make some  
3 last comments. And I may be totally wrong about what's  
4 going to happen here. I just envision in my mind -- I'm  
5 going to approve the disclosure statement. You've got to  
6 rewrite the solicitation. It's just not plain English. I'm  
7 going to approve it. It's going to go out for a vote. Mr.  
8 Stang and Ms. Ball are going to get serious about  
9 negotiations. And one of the things you objected to was  
10 whether the Debtor alone could move the dates out. You  
11 know, want them to consult. But this has happened -- I  
12 haven't had a case as difficult as this one, but I think  
13 cases where yeah, you know, it happened in Celsius. A  
14 disclosure statement gets approved and goes out for votes  
15 and they finally get serious about working out some issues.  
16 And as long as there are no adverse effects on creditors --  
17 I'm not assuming that would be the ruling here, but when a  
18 plan has been changed and there's no adverse effect on  
19 creditors, there's a lot of caselaw that says you don't have  
20 to resolicit.

21 But I just -- you know, is this what it's going to  
22 take to get you to really resolve this? Don't answer me.  
23 I'll see you at 1:30.

24 (Recess)

25 THE COURT: All right, please be seated. I think

1 I briefly indicated that I had a 2:00 hearing. I pushed it  
2 to 3:30. So before I turn to the Committee's counsel, is  
3 there any other counsel who wishes to be heard. Either  
4 insurer's counsel or -- come on up, please.

5 MR. ROTEN: Good afternoon, Your Honor. I am  
6 Russell Roten.

7 THE COURT: Can you tell me your last name again?

8 MR. ROTEN: Roten, R-o-t-e-n. I'm at Duane  
9 Morris. And our firm represents the London market insurers  
10 and Cathy Sugayan of Clyde & Co. is on the phone. She is  
11 insurance counsel.

12 MR. ROTEN: Your Honor, it's two subjects I'm  
13 going to talk about.

14 THE COURT: Yeah, go ahead.

15 MR. ROTEN: One is the letter that the Committee  
16 wishes to have attached to the solicitation.

17 THE COURT: Yes.

18 MR. ROTEN: Ms. Sugayan and Mr. Stang negotiated  
19 some revised wording to that.

20 THE COURT: I was going to require that. It  
21 wasn't -- you know, did you work it out? Have you worked  
22 out language?

23 MR. ROTEN: Yes.

24 THE COURT: And you shared it with the Debtor as  
25 well?

1 MR. ROTEN: No, we just did it.

2 THE COURT: Okay.

3 MR. STANG: Yes, Your Honor, I gave Ms. Ball a  
4 copy before the hearing started.

5 THE COURT: Okay. Ms. Ball, is the revised  
6 language satisfactory to the debtors?

7 MS. BALL: If I could just confirm with insurance  
8 counsel, but I suspect the answer is yes.

9 MS. SUGAYAN: Your Honor, this is Cathy Sugayan  
10 from Clyde & Co. I also circulated an email to Ms. Ball,  
11 Ms. Kramer, and Mr. Stang with the language that I believe  
12 we've agreed to.

13 THE COURT: Is this the same?

14 MR. STANG: I haven't seen that email. I  
15 handwrote out, gave it to Ms. Ball. I handwrote it out and  
16 gave it to Mr. Roten. Ms. Sugayan and I read it to each  
17 other twice on the phone.

18 MR. ROTEN: Your Honor, if there's some slight  
19 wording difference, I'm sure we can figure it out.

20 THE COURT: It sounds like this is going to get  
21 worked out. Ms. Ball is raising her thumbs up. Her  
22 insurance counsel is -- I'm sure it's going to get  
23 satisfactory. The disclosure statement is not being  
24 approved today. There's going to be a further blackline  
25 done. The committee's letter has got to be revised. This

1 will get done. Okay? Work out agreeable language and just  
2 confirm that whatever is submitted to the Court has been  
3 agreed to. Okay?

4 MR. ROTEN: Your Honor, we have a number of  
5 objections to the disclosure statement, but we were able to  
6 resolve almost all of those consensually with the debtor.  
7 And we appreciate the debtor working with us on that.

8 But there are two objections that we made that I  
9 haven't heard the Court discuss already, and I want to just  
10 go through those briefly.

11 The first one, Your Honor, has to do with the  
12 rights under the insurance policies that are -- that cover  
13 the related parties, the non-debtors. Those insurance  
14 rights are not property of the estate.

15 THE COURT: No, that's wrong. The policies are  
16 property of the estate. You are incorrect.

17 MR. ROTEN: Okay.

18 THE COURT: It may be that proceeds of policies  
19 are shared, but the policies are property of the estate.

20 MR. ROTEN: Your Honor, we had a ruling in Camden  
21 to the contrary.

22 THE COURT: That's nice, but you don't have a  
23 ruling here.

24 MR. ROTEN: No, I understand. I'm just trying to  
25 make that point that that's our objection. Okay?

1 THE COURT: Okay, overruled.

2 MR. ROTEN: Okay. And the second one, we have a -  
3 - there's a couple of related problems.

4 THE COURT: Please mute your microphone if you're  
5 on Zoom, please.

6 Go ahead, Mr. Roten.

7 MR. ROTEN: Your Honor, the description of the  
8 assignment process doesn't describe the assignment of the  
9 obligations under the insurance policies. The main one  
10 we're concerned with is the duty to defend. But there are a  
11 number of obligations that the Debtor had under the  
12 insurance policies. These are not typical liability  
13 policies; they are indemnity policies where the debtors are  
14 self-insured. And the plan doesn't and the disclosure  
15 statement doesn't describe how those obligations are going  
16 to be performed after the assignment. So we don't know who  
17 is going to be obligated under the policies to do what. And  
18 of course that's a problem for us.

19 THE COURT: May I ask this? There's a lot of  
20 state court litigation before Judge Steinman --

21 MR. ROTEN: There is.

22 THE COURT: Let me finish my question. Have the  
23 LMI carriers agreed to defend and are they providing a  
24 defense in any of the actions?

25 MR. ROTEN: They don't the duty to defend, Your

1 Honor.

2 THE COURT: Well, then what are you asking me  
3 about then? You just said they don't have a duty to defend.

4 MR. ROTEN: No, I'm saying the question is who  
5 defends. It's not LMI, now it's the diocese.

6 THE COURT: Well, it's not your problem, is it?

7 MR. ROTEN: It is our problem.

8 THE COURT: Why is it your problem? You say you  
9 don't have a duty to defend. Somebody has got to defend the  
10 cases.

11 MR. ROTEN: Yes. And they have a duty to  
12 cooperate with us to use a claims administration, and they  
13 have to work --

14 THE COURT: Well, I'm sure that if the cases go  
15 back to litigation, somebody will defend. And if they want  
16 insurance coverage, they have a duty to cooperate.

17 MR. ROTEN: We're trying to find out who that is,  
18 Your Honor.

19 THE COURT: Well, maybe they don't know who it is  
20 yet.

21 MR. ROTEN: Well, if the plan --

22 THE COURT: Tell me this. Is there something that  
23 says they have to notify you today who will defend the  
24 actions?

25 MR. ROTEN: No.

1 THE COURT: Okay. So when the time comes, you'll  
2 be notified.

3 MR. ROTEN: Well, we're objecting to the  
4 disclosure statement on the grounds that it doesn't contain  
5 that information, which we think is important.

6 THE COURT: Well, you just said -- do they have to  
7 tell you today who is defending?

8 MR. ROTEN: No.

9 THE COURT: Then I don't understand your  
10 objection. There's no duty on anybody's part to tell you  
11 who is defending the actions at this stage. And if and when  
12 someone is defending the actions, they'll tell you.

13 MR. ROTEN: Yes, Your Honor. But before that  
14 happens, we need to know who it is so that we can work with  
15 them on --

16 THE COURT: Well, when the time comes, they'll let  
17 you know. Because nobody is going to want to blow the  
18 insurance coverage.

19 MR. ROTEN: I understand.

20 THE COURT: And, Ms. Ball, am I missing something  
21 here? Or you have insurance counsel here? I don't know who  
22 wants --

23 MS. BALL: I think you have it right, Your Honor.

24 THE COURT: Your rights are not affected. Your  
25 objection is overruled.



1 MR. ROTEN: Also, Your Honor, the wording is so  
2 vague that we can't tell --

3 THE COURT: Which wording?

4 MR. ROTEN: The wording about the assignment.

5 THE COURT: Point specifically to the wording that  
6 you're objecting to. Do you have it in front of you?

7 MR. ROTEN: No, I don't. It's the assignment.

8 THE COURT: Well, if you have an objection to  
9 language, you have to give me the language.

10 MR. ROTEN: Well, I'm trying to give the Court the  
11 concept.

12 THE COURT: No, I don't want the concept. I want  
13 the language, just the way I ask others to point  
14 specifically to the language in various documents. Concept  
15 doesn't do anything for me. Language does. If you have an  
16 objection to the language, I will consider it. When you  
17 find it, you'll tell me where it is and I will open it up  
18 and look at it.

19 MR. ROTEN: Yes. I don't have it with me, Your  
20 Honor.

21 THE COURT: Well then your objection is overruled.  
22 You don't have any language you're objecting to. If you  
23 come to my court and you have an objection to something, you  
24 have to point specifically to what you're objecting to, not  
25 a concept, but language. Just the way I've gone through and

1 required the Debtor or the Committee to provide different  
2 language, you can't come up and tell me you object to a  
3 concept but can't point to the language.

4 MR. ROTEN: Well, we did in our brief, Your Honor.

5 THE COURT: Well, then look at your -- do you have  
6 your brief on your computer?

7 MR. ROTEN: No, Judge.

8 THE COURT: No.

9 MR. ROTEN: So we'll just stand on our brief then.

10 THE COURT: Well, no. Your objection is  
11 overruled. This is the argument. This is the time. Okay?  
12 If you have an objection to specific language in the  
13 disclosure statement or in the -- the plan is premature. If  
14 you have objection to specific language in the disclosure  
15 statement, this is the disclosure statement hearing, this is  
16 the time you're required to specifically make your  
17 objection. Not a concept.

18 MR. ROTEN: Let me see if I can find it, Your  
19 Honor.

20 THE COURT: Somebody wants to help you. Tell me  
21 what it is you're looking at.

22 MR. ROTEN: This is --

23 MS. BALL: It's your objection.

24 THE COURT: I need to know what the language in  
25 the disclosure statement is that you're objecting to.

1 MR. ROTEN: It's on Page 40 through 41.

2 THE COURT: Of the most recent?

3 MR. ROTEN: Yes.

4 THE COURT: Okay. Bear with me. Okay?

5 MR. ROTEN: At least I believe it's the most  
6 recent. Yeah, we don't have the latest version.

7 THE COURT: I didn't hear that.

8 MR. ROTEN: We don't have the recent one here.  
9 This is a prior draft.

10 THE COURT: Well, I just happen to have it here.  
11 Page what?

12 MR. ROTEN: 40 through 41.

13 THE COURT: What's the ECF document that you're  
14 looking at?

15 MR. ROTEN: Bear with me for a moment, Your Honor.

16 THE COURT: Please don't mumble. You have to  
17 articulate out loud so I have a clear record.

18 MR. ROTEN: I'm sorry.

19 THE COURT: When you speak, you have to speak  
20 clearly. Because there is a transcript that can be  
21 prepared. So you can't mumble.

22 MR. ROTEN: Your Honor, I can't find it. So  
23 that's all I have.

24 THE COURT: Well, if you can't find it, if there's  
25 language you want me to look at and you can't find it, your

1 objection is overruled. I'm giving you a chance to make  
2 your objection.

3 MR. ROTEN: I understand. I can't find that  
4 wording. That's my response.

5 THE COURT: Does anybody else know what he's  
6 talking about?

7 MR. ZIPES: Your Honor, I believe it's now on Page  
8 42 is what he's referring to. On Page 42 rather than 41.

9 THE COURT: Of the current disclosure statement?

10 MR. ZIPES: Under the new -- but, Your Honor, I'm  
11 sorry, I'm just flying off the cuff as well. So I apologize  
12 if I'm not right about that.

13 MR. ROTEN: No, Your Honor, that's not the wording  
14 I'm looking for. Okay? So I understand the Court's ruling.

15 THE COURT: Okay. I want a clear record of this.  
16 I am giving you a chance to show me the language in the  
17 disclosure statement as to which you are objecting. You  
18 have not been able to do so. Am I correct so far?

19 MR. ROTEN: Yes. I don't have the wording.

20 THE COURT: Okay. And the objection is overruled.  
21 Okay.

22 Anybody else wish to speak?

23 MR. ROTEN: Your Honor, I might be able to find it  
24 if you can just --

25 THE COURT: Well, find it now. Now is the time.

1 You know, we've been at it since 10:00 this morning.

2 Anybody on the Debtor's team able to help? I  
3 would much prefer to rule on the merits rather than because  
4 of counsel's inability. Ms. Ball wants to help you, Mr.  
5 Roten.

6 Ms. Ball, tell me where we are.

7 MR. ROTEN: Page 34.

8 THE COURT: Of the current disclosure statement?

9 MR. ROTEN: Third modified --

10 THE COURT: Hold -- hold.

11 MS. BALL: And the fourth is roughly the same,  
12 Your Honor. Just a minute. Blackline Number 4, Your Honor.  
13 It's on Page 36, which is 157 of 255. 167, sorry, of 255.  
14 And that's Docket Number 2885.

15 THE COURT: Okay, just a second. All right. I am  
16 in ECF 2885, Page 167 of 255.

17 MR. ROTEN: Is that --

18 MS. BALL: That's the same --

19 MR. ROTEN: Is that Section 10? Insurance  
20 assignment and other insurance policies, Your Honor?

21 THE COURT: Yes.

22 MS. BALL: Yes.

23 THE COURT: What's your objection.

24 MR. ROTEN: Yes. Under this insurance assignment  
25 and other insurance policies, there is no description of who

1 the assignee is. So there is a statement that the insurance  
2 rights as made to the trust. That's in Section A. It's  
3 made to the trust free and clear of all claims and so forth.  
4 So assuming that the wording that we consider to be vague is  
5 resolved.

6 THE COURT: Which is the words that you consider  
7 to be vague?

8 MR. ROTEN: The entire description doesn't say who  
9 the assignee is.

10 THE COURT: I'm looking at the paragraph on  
11 insurance assignment and other policies. It's Paragraph 10.

12 MR. ROTEN: Yes.

13 THE COURT: And there are subparagraphs A through  
14 H. And is there a particular -- and it continues on for  
15 several pages after that.

16 MR. ROTEN: Yes, that's right.

17 THE COURT: And is there a particular place that  
18 you think the language in the disclosure statement is  
19 deficient?

20 MR. ROTEN: Yes.

21 THE COURT: Where?

22 MR. ROTEN: In C and D. It says the trust is  
23 responsible for satisfying premiums, deductibles, self-  
24 insured retentions, and fronting obligations.

25 THE COURT: Hold on. Let me read it. So in 10C,

1       it says the Arrowood Settlement Trust and the General  
2       Settlement Trust shall be solely responsible for satisfying  
3       to the extent required under applicable law any premiums,  
4       deductibles, self-insured retentions, and fronting  
5       obligations arising in any way out of any and all abuse  
6       claims.

7               What's ambiguous about that? It says specifically  
8       that the two trusts are solely responsible. What is not  
9       clear about that?

10              MR. ROTEN: Well, you need to read D as well.

11              THE COURT: Well, for what -- are you satisfied  
12       with C?

13              MR. ROTEN: All I'm trying to tell the Court is  
14       that there are a number of obligations under the insurance  
15       policies and this only deals with a limited number --

16              THE COURT: Okay, just answer my question now. Do  
17       you have any objection to Paragraph 10C? Yes or no?

18              MR. ROTEN: As far as it goes, no.

19              THE COURT: You know, are you having trouble  
20       understanding what I'm saying? Please tell me what is the  
21       deficiency in Paragraph 10C that you are objecting to? What  
22       should Paragraph 10C say that it doesn't say?

23              MR. ROTEN: It should say what all the contractual  
24       obligations are and what happens to them. It only picks a  
25       select few. That's the deficiency.

1 THE COURT: What contractual obligations do you  
2 believe must be specifically addressed in the disclosure  
3 statement?

4 MR. ROTEN: The duty to defend cases.

5 THE COURT: What else?

6 MR. ROTEN: The duty to use a claims  
7 administrator.

8 THE COURT: I'm sorry, say that again?

9 MR. ROTEN: Sorry. The duty to use a claims  
10 administrator.

11 THE COURT: Yes. Anything else?

12 MR. ROTEN: The duty to cooperate with the  
13 insurers in the litigation and settlement of cases.

14 THE COURT: Anything else?

15 MR. ROTEN: Give me a second. The duty to produce  
16 books and records for examination.

17 THE COURT: Anything else?

18 MR. ROTEN: Duty to pay the self-insured  
19 retentions.

20 THE COURT: That's specifically in here. Look at  
21 the language. Look at the language. Look at 10C.

22 MR. ROTEN: Oh, I see that. Thank you.

23 THE COURT: "To the extent required under  
24 applicable law, any premiums, deductibles, self-insured  
25 retentions, and fronting obligations."



1 MR. ROTEN: I see that.

2 THE COURT: What else?

3 MR. ROTEN: That's all I can think of right now.

4 THE COURT: Did you have an objection to 10D?

5 MR. ROTEN: No. That covers notice. And that was

6 --

7 THE COURT: You don't have an objection to 10D?

8 MR. ROTEN: No.

9 THE COURT: So the only paragraph that you have an  
10 objection to is 10C.

11 MR. ROTEN: C and D name specific obligations that  
12 are assigned --

13 THE COURT: Stop. Do you have any objections to  
14 what's in 10D? Yes or no?

15 MR. ROTEN: No.

16 THE COURT: All right. So 10C is the only  
17 paragraph as to which you have an objection. Is that  
18 correct?

19 MR. ROTEN: As to obligations, yes.

20 THE COURT: Do you have objection -- look. Tell  
21 me all of your objections. I can't rule on them if you just  
22 say, and other things.

23 MR. ROTEN: That's it. I'm just talking about  
24 obligations being assigned.

25 THE COURT: Are there any -- tell me specifically

1 -- you've given me a list of four things. Duty to defend,  
2 duty to use claim administrator, duty to cooperate in  
3 litigation and settlement of case, duty to produce books and  
4 records for examination. Is there anything else?

5 MR. ROTEN: I can't think of anything else.

6 THE COURT: I want to be sure you've got all of  
7 your objections on the record.

8 MR. ROTEN: Well, may I ask Ms. Sugayan if I  
9 missed anything? She is on the phone.

10 THE COURT: Yes. Go ahead and ask.

11 MR. ROTEN: Ms. Sugayan, do you have any  
12 additional obligations you'd like to have on the record?

13 THE COURT: You're on mute.

14 MS. SUGAYAN: Sorry about that. The only thing I  
15 didn't hear you say was the right to associate.

16 THE COURT: Right to associate what?

17 MS. SUGAYAN: In the defense.

18 THE COURT: Okay. And either or both of you now  
19 told me all of the things as to which you are objecting to  
20 in the disclosure statement.

21 MR. ROTEN: I believe so.

22 THE COURT: Ms. Sugayan, is there anything else?

23 MS. SUGAYAN: Well, the Debtor is not to make  
24 false or fraudulent claims.

25 THE COURT: That needs to be in the disclosure

1 statement?

2 MS. SUGAYAN: No, I was just reading what was in  
3 the brief. I think just the right to associate is all I  
4 would add, Your Honor. Thank you.

5 THE COURT: Thank you. All right. Ms. Ball or  
6 one of your colleagues wish to respond?

7 MR. ROSENBLUM: Your Honor, Benjamin Rosenblum  
8 from Jones Day on behalf of the Debtor.

9 Your Honor, the documents say what they say and  
10 LMI is not voting on the plan. So as a disclosure --

11 THE COURT: Sorry, I'm having a little hearing  
12 you.

13 MR. ROSENBLUM: I'm sorry, Your Honor. I'll speak  
14 up. The documents say what they say, and LMI is not voting  
15 on the plan. So as a disclosure matter, we put an objection  
16 in as to their standing to complain about disclosures.  
17 Notwithstanding that, a very nice page on 2885, it's Page 36  
18 carrying over into 37, has a long list of LMI contentions  
19 that we included at their request, which you will see  
20 largely mirror what Mr. Roten went through. And then to the  
21 extent that there's any lack of clarity, obviously the  
22 insurers have taken the position that the insurance policies  
23 are executory contracts. We dispute that. And to the  
24 extent there are obligations, there's no mystery as to who  
25 those obligations would attach to.

1 THE COURT: May I ask did you include in the  
2 disclosure statement the LMI contention that the insurance  
3 contracts are executory contracts?

4 MR. ROSENBLUM: Yes, Your Honor. I believe it's  
5 in the pages I just referenced. Sorry, Your Honor. It's in  
6 the blackline on 187, 255.

7 THE COURT: 187 of 255?

8 MR. ROSENBLUM: That was 187 of 255. It's Page 56  
9 of the disclosure statement. LMI Interstate Associate  
10 International and Lexington Insurance Company contend that  
11 their policies are executory and that the trusts --

12 THE COURT: And that the Debtor must assume the  
13 policies. And it goes on from there. All right.

14 Mr. Roten, do you see that language?

15 MR. ROTEN: Yes. The executory contract is one of  
16 the issues we had resolved before today.

17 THE COURT: Well, then why is Ms. Sugayan raising  
18 the issue about the executory contracts if it's been  
19 resolved? I want to know what are the open issues.

20 MR. ROTEN: I only have one more comment, Your  
21 Honor.

22 THE COURT: Go ahead.

23 MR. ROTEN: The -- because of the sections that I  
24 just went through, and we talked about those sections that  
25 are unclear, there is nowhere in that Section 10 that

1 specifies, as I say it, who is going to perform the  
2 contracts. However, it does say contractual rights,  
3 insurance rights are assigned to the two different trusts.  
4 So one can infer from that that at least something is going  
5 to be assigned to the two trusts.

6 So what will happen is you have a situation where  
7 the trustee, if the trustee is the assignee, will have  
8 contractual duties to LMI that they have to perform in order  
9 to keep the insurance in effect, including --

10 THE COURT: The one thing I can be certain of is  
11 you will raise every objection you possibly can to providing  
12 coverage. This is a disclosure statement. At the time of  
13 confirmation, I am sure there will be appropriate agreements  
14 and you will complain loudly or argue that it results in a  
15 loss of coverage. This is a disclosure statement to  
16 creditors. Mr. Roten, come back up.

17 MR. ROTEN: I'm trying to make the objection, Your  
18 Honor, but you've cut me off --

19 THE COURT: You made your objection already.

20 MR. ROTEN: I haven't made this objection.

21 THE COURT: They why did you sit down if you  
22 hadn't -- I asked you did you have any other objections and  
23 you gave me and I wrote down a list of them. You only get  
24 to speak once. Tell me -- I want -- you're standing there.  
25 Tell me every objection you have. And if you leave anything

1 out, it's too bad. Okay? Are there anything in addition to  
2 what I've already written down?

3 MR. ROTEN: Yes. I was trying to do my last  
4 point.

5 THE COURT: Hurry up.

6 MR. ROTEN: So if the trustee has contractual  
7 obligations to the insurers, then the trustee has to defend  
8 and oppose the claim. On the other hand, if the trustee is  
9 a fiduciary to the claimant, the trustee has to try to  
10 recover as much as possible on behalf of the claimant. So  
11 the disclosure statement doesn't say anywhere that there is  
12 this conflict that the trustee is faced with between its  
13 contractual duties to the insurers and its fiduciary  
14 obligations to the claimants.

15 And if I were a claimant, I would certainly want  
16 to know that the guy representing me has contractual  
17 obligations to oppose my claim. That's the disclosure  
18 statement objection. That's in our papers.

19 THE COURT: Are you now finished?

20 MR. ROTEN: Yeah.

21 THE COURT: Then sit down.

22 Mr. Rosenblum, are you going to respond or is  
23 someone else going to respond?

24 MR. ROSENBLUM: I'll respond to that. Your Honor,  
25 Ben Rosenblum from Jones Day for the Debtor.

1 I just want to seize on Mr. Roten's last words.  
2 He said if I were a claimant. He is not. He can't -- we  
3 have this cited in our briefs, but he can't complain about  
4 other people's rights. He doesn't have standing to do that.

5 With respect to the particular objections, we've  
6 included all the contentions that they want about threats  
7 regarding coverage. And there's no mystery as to what is  
8 being assigned to the trust.

9 I'm sorry, Your Honor, with respect to his  
10 argument that there is an irreconcilable conflict because  
11 the trustee has a fiduciary duty to claimants to maximize  
12 insurance value and also defends the claim. One, it's a  
13 confirmation objection if anything. Two, it's exactly the  
14 same position that the estate is in now. So under Mr.  
15 Roten's argument, all insurance coverage would be  
16 eviscerated upon a bankruptcy filing, which is not the law.

17 And then finally this is a regular course in mass  
18 tort cases. And coming from long-ago asbestos cases,  
19 insurance rights get assigned to trusts that are required to  
20 divvy out the insurance proceeds and other assets to  
21 claimants all the time. So there's no irreconcilable  
22 conflict. Thank you, Your Honor.

23 THE COURT: Mr. Rosenblum, let me ask. If the  
24 plan is confirmed and the policy is assigned, who will have  
25 the duty to defend?

1 MR. ROSENBLUM: Your Honor, to the extent that  
2 there's duties -- and our plan provides for not the policy  
3 to be assigned, but the chosen action to assign the  
4 proceeds. But to the extent that there are any obligations  
5 or conditions to the insurance, it's up to the trust to  
6 comply with that.

7 And, Your Honor, I would just add -- and again, 36  
8 and 37 of the disclosure statement, we concluded Mr. Roten's  
9 contentions.

10 THE COURT: Which pages, 36 and 37?

11 MR. ROSENBLUM: Thirty-six and 37 of 2885.

12 THE COURT: Let me get there.

13 MR. ROSENBLUM: ECF page is 43 of 255.

14 THE COURT: Tell me this. Assuming the plan is  
15 confirmed, what further agreements or documentation and  
16 between whom will have to be entered into to effect the  
17 transfer of rights, privileges, et cetera, under the  
18 policies?

19 MR. ROSENBLUM: Your Honor, I mean, the trust  
20 documents. I believe that's all that we contemplated at  
21 this time.

22 THE COURT: And have those trust documents been  
23 drafted already?

24 MR. ROSENBLUM: They have, Your Honor.

25 THE COURT: And where is the language in the trust



1 documents that deal with insurance?

2 MR. ROSENBLUM: Your Honor, the trust document are  
3 at 2857.

4 THE COURT: I'm not sure -- read me the language  
5 that you are relying on there with respect to it.

6 MR. ROSENBLUM: So, Your Honor, the actual  
7 operative assignment language is the assignment language in  
8 the plan. And then -- but the trust agreements --

9 THE COURT: Which is the operative language in the  
10 plan?

11 MR. ROSENBLUM: Your Honor, I believe it was the  
12 language that Mr. Roten was reading from. In the disclosure  
13 statement it's 2885 Page 35. It talks about the insurance  
14 assignment. And there's comparable language in the plan.  
15 And then the trust documents --

16 THE COURT: Tell me specifically which language  
17 you're relying on?

18 MR. ROSENBLUM: So going to 10A, "The covered  
19 parties shall have irrevocably transfer grant and assigned  
20 to the (indiscernible) settlement trust and the general  
21 settlement trust shall receive and accept any and all  
22 insurance rights."

23 And Ms. Ball is pointing out that it's Article 4G  
24 of the plan.

25 THE COURT: When the covered parties irrevocably

1 transfer and grant and assign to the trusts any and all  
2 insurance rights, do the trusts assume whatever obligations  
3 arise under the policies?

4 MR. ROSENBLUM: To the extent of any obligations  
5 or conditions, yes. We're not assigning the policies, but  
6 we are assigning the chosen action. And to the extent that  
7 they have to comply with it, it is the trust's obligation to  
8 the extent they have to comply with cooperation or --

9 THE COURT: So what I would like then is a  
10 sentence added to the disclosure statement that says -- I'm  
11 not giving you the exact words, but upon the assignment --  
12 upon the transfer grant and assignment to the trusts, the  
13 trust shall have whatever obligations arising  
14 (indiscernible). I mean, does that -- I mean, he's  
15 complaining, but there's nothing in here that says that the  
16 obligations get assigned.

17 MR. ROSENBLUM: Your Honor, that's fine, Your  
18 Honor. I would point out that on 37 we included it as a  
19 contention. But we're fine to do that.

20 THE COURT: Did you intend something else? I want  
21 to be as certain as one can be that if this plan goes  
22 effective, that the insurers don't have a defense to  
23 coverage because they think there was some language missing.

24 MR. ROSENBLUM: Your Honor, we will include that.

25 THE COURT: Okay. So what I would like you to do

1 is consult with the Committee's counsel. And I've given you  
2 the gist. Those won't be the exact words, but what I hear  
3 as the objection is there was nothing that said anybody had  
4 these rights to have these duties to defend, use a claim  
5 administrator, et cetera. And I won't go through that whole  
6 list.

7 Mr. Stang?

8 MR. STANG: Your Honor --

9 THE COURT: Just make sure you're protecting...

10 MR. STANG: I'm going to speak clearly and  
11 distinctly.

12 I'm getting lots of texts from our insurance  
13 counsel as this is going on. And I'm told, be careful  
14 because we may want to argue that the assignment of the  
15 rights is different than the assignment of the policies and  
16 that whether these duties and obligations come over is  
17 something that can still be debated. We can as a disclosure  
18 matter say this is what they contend, but we don't want to  
19 be in a position by virtue of the language to concede the  
20 point.

21 THE COURT: That's fine. Come up with the Debtor  
22 with some language to put in that states what their  
23 contention is and leaves it open. I don't want to suddenly  
24 create a defense that wouldn't be there.

25 MR. STANG: Understood.

1 THE COURT: And if your legal position is right,  
2 that's fine.

3 MR. STANG: Got it.

4 THE COURT: Okay?

5 MR. STANG: Thank you.

6 THE COURT: All right. So you'll confirm with the  
7 Debtor about that. All right. Anybody else from -- go  
8 ahead, Mr. Rosenblum? Do you want me --

9 MR. ROSENBLUM: No. I was just going to say thank  
10 you. We will do that. And I was trying to be careful to  
11 say if any each time I say...

12 THE COURT: That's fine. Make sure it has the  
13 words "if any". All right.

14 Anybody else wish to be heard? Go ahead, Mr.  
15 Stang.

16 MR. STANG: Last call.

17 THE COURT: I won't say that you're going to get  
18 the final word, but you'll get your word.

19 MR. STANG: No, no, no. I meant last call for  
20 anyone else.

21 And, Your Honor, when I marked this up, I did it  
22 on the blackline. And so I would refer to the PDF pages of  
23 Document 2885. So the first part of 2885 is the clean --

24 THE COURT: I have those -- I've got the blackline  
25 in front of me as well.

1 MR. STANG: So I'm at Page 132 of 255.

2 THE COURT: Let me turn there. Okay, I am there.

3 MR. STANG: This is one of those global cut and  
4 paste changes, Your Honor. This is about how much the  
5 Debtor is actually contributing. They say they are  
6 contributing \$200 million, 2.5 of which is coming from what  
7 they characterize as a rebate of my firm's fees.

8 When I was here last, you teased me a little bit  
9 saying, well, so you have that thin of a skin that it's  
10 somehow being credited to them. And the answer is it's not  
11 a matter of having a thin skin or a thick skin. It's a  
12 matter of correct and what is true. They are not -- unless  
13 the fees that my firm has received on an interim basis are  
14 considered still property of the estate. They are not  
15 contributing \$200 million. They are contributing \$197.5  
16 million. And it is simply not true when they say at the  
17 third bullet point on Page 132 that the cash funding, which  
18 is what they say the diocese and the covered parties are  
19 putting up, includes the \$2.5 million fee rebate. They are  
20 not making that contribution. And I think every time they  
21 say 200, it should be changed to 197.5. That's...

22 THE COURT: Let me get a response on that and then  
23 I'll turn it back to you.

24 MR. STANG: Okay.

25 MR. ROSENBLUM: Your Honor, Ben Rosenblum from

1 Jones Day again.

2 So as an initial matter, we put Mr. Stang's  
3 contention on Page 7 of the disclosure statement under the  
4 Committee's contentions. And we dropped a note that that's  
5 their position. It's the Debtor's position that the fee  
6 reduction, which is how it's framed in their retention  
7 documents, is a discount and that it's discussed in their  
8 retention as instead of giving a discount that would go to  
9 the estate, we want to make sure that our individual  
10 creditors get it. And that's how it's framed.

11 And they did propose language to us -- and it's in  
12 their objection -- that this was a voluntary agreement. But  
13 it's in lieu of a discount which other professionals are  
14 given. And, frankly, it avoids the holdback. And it's --  
15 in these cases, they've given discounts. I mean, the  
16 Pachulski firm charges a fraction of what it charges in this  
17 case in the upstate diocese cases. I'm not saying that  
18 that's improper. But it is a discount that would ordinarily  
19 go to the estate.

20 THE COURT: And tell me the amount again?

21 MR. ROSENBLUM: It's a ten percent discount --

22 THE COURT: No, but what's the total dollar  
23 amount?

24 MR. ROSENBLUM: It's approximately \$2.5 million.

25 THE COURT: Okay. And where in the disclosure

1 statement does it have that? Which page?

2 MR. STANG: Your Honor, if I might.

3 THE COURT: Yeah.

4 MR. STANG: On the blackline it's on 138 of 255 as  
5 Footnote 34.

6 THE COURT: Okay.

7 MR. ROSENBLUM: That's right. And accompanies --

8 THE COURT: Stop. Now I've lost the page. Where  
9 does it say the \$200 million again? Give me the page  
10 number.

11 MR. STANG: Where does it have the amount, Your  
12 Honor? Where does it have the amount?

13 THE COURT: Yeah, the \$200 million.

14 MR. STANG: Oh, it's throughout the document.

15 THE COURT: Yeah, but the first --

16 MR. STANG: Oh, I'm sorry.

17 THE COURT: Where you were referring to. You read  
18 me the sentence.

19 MR. STANG: The executive summary, Your Honor.

20 THE COURT: Okay. Just what page?

21 MR. STANG: It's on Page 132 of 255 --

22 THE COURT: Okay.

23 MR. STANG: The first sentence.

24 THE COURT: Stop.

25 MR. STANG: I'm sorry, second sentence.

1 THE COURT: I'll give you your choice, Mr.  
2 Rosenblum. Either put in a parenthetical or a footnote and  
3 say the amount includes \$2,500,000 reduction in fees by the  
4 Committee's counsel. I'll give you your choice. Put it  
5 parentheses right after the \$200 million or just put a  
6 footnote and put it at the bottom of the page.

7 MR. ROSENBLUM: That's fine, Your Honor.

8 THE COURT: Which are you going to do?

9 MR. ROSENBLUM: I'm sorry, a parenthetical --

10 THE COURT: A parenthetical or a footnote.

11 MR. ROSENBLUM: We'll drop a footnote, Your Honor.

12 THE COURT: You --

13 MR. ROSENBLUM: We'll drop a footnote, Your Honor.

14 THE COURT: Put a footnote.

15 What's your next objection, Mr. Stang?

16 MR. STANG: Your Honor, on Page 133 of 255, new  
17 Footnote 3. "If a claim objection is a litigated claim."  
18 Page 133 of 255.

19 THE COURT: Yes.

20 MR. STANG: Third footnote. This is what I don't  
21 understand. There are -- my general lack of comprehension  
22 is are we talking about matters in front of Judge Steinman?  
23 We know there are at least two lawsuits pending before Judge  
24 Steinman that are against, I believe it's high schools. And  
25 there's been a debate about whether that should have been on



1 the preliminary injunction release list or not. I can't  
2 tell who it is they're talking about here. And if there are  
3 specific lawsuits currently pending before Judge Steinman  
4 that in effect are now doing to be stayed again because of  
5 this footnote, I think they should say who they are.

6 Because I can't quite figure out what they're talking about.

7 THE COURT: I don't understand exactly what you're  
8 saying. I'm reading the footnote.

9 MR. STANG: If a claim objection to a litigation  
10 abuse claim is pending, the claim objection will be heard  
11 before any other litigation proceeds.

12 THE COURT: Will be resolved prior to any  
13 litigation proceeding.

14 MR. STANG: Right. So I guess I would like to  
15 know is there a specific matter before Judge Steinman that  
16 they believe will be stayed pending the resolution of the  
17 claim objection. That's what I don't understand. I read  
18 the words, but I don't know who they're talking about. And  
19 if they're talking about someone in particular, I think they  
20 should tell that person.

21 THE COURT: Well, let me find out. What is the  
22 meaning of Footnote 3 on Page 133 of 255?

23 MR. ROSENBLUM: Your Honor, so the purpose of that  
24 footnote was in response to a committee comment asking about  
25 choice of forum. And our procedures do provide that if

1       there is a pending claim objection, then it gets -- that  
2       gets resolved before the state court litigation. That  
3       procedure is also -- now, there's never going to be a claim  
4       objection where the Diocese is a party to the CVA because we  
5       don't have that. But where there is a --

6               THE COURT: When you say you don't have it, I  
7       don't know what -- what are you telling me?

8               MR. ROSENBLUM: So...

9               THE COURT: Right now the actions which the  
10       Diocese and a covered party are defendants is stayed.

11              MR. ROSENBLUM: Right, right.

12              THE COURT: So I'm struggling to understand what  
13       you were telling me.

14              MR. STANG: I'm struggling to understand what  
15       they're saying --

16              THE COURT: Wel, let's do one at a time.

17              MR. STANG: Okay.

18              MR. ROSENBLUM: In terms of choice of forum,  
19       because the cases before Judge Steinman do not involve the  
20       debtor --

21              THE COURT: For now.

22              MR. ROSENBLUM: For now, there is no situation  
23       where both the Diocese and the parish are in front of Judge  
24       Steinman. So there are parallel -- there is a situation  
25       where there's a case in front of Judge Steinman where

1       there's a covered party and not the diocese and there is a  
2       claim objection. And this provides that for litigating  
3       abuse claims, the claim objection finishes its course.

4               THE COURT: What?

5               MR. ROSENBLUM: The claim objection has to be  
6       resolved first. It doesn't adjudicate the case in front of  
7       Judge Steinman --

8               THE COURT: The claim objection can only be with  
9       respect to a claim filed in this case.

10              MR. ROSENBLUM: Correct.

11              THE COURT: There may be a motion to dismiss or  
12       something with respect to the claim that's against the  
13       covered party that's before Judge Steinman. That's not  
14       here.

15              MR. ROSENBLUM: Correct.

16              THE COURT: And so what are you saying? If  
17       there's a -- there are no outstanding claim objections. I  
18       think I've decided everything that's been presented to me.

19              MR. ROSENBLUM: Your Honor, it includes claims  
20       that are on appeal.

21              THE COURT: Right. So what you're saying is to  
22       the extent there are -- you're not contemplating new claim  
23       objections, are you, before me?

24              MR. ROSENBLUM: Your Honor, we have in our  
25       solicitation procedures said we have until February 22nd to

1 bring those on.

2 THE COURT: Well, I'm asking you a question now.

3 MR. ROSENBLUM: Yeah, I was -- I'm sorry, Your  
4 Honor. Your Honor, I think there's about a dozen claims  
5 that we contemplate objecting to.

6 THE COURT: I guess what you're trying to say is  
7 if there's an objection to claim, claim against the diocese,  
8 I'll be the one burdened with resolving it.

9 MR. ROSENBLUM: Right. Or the district court or  
10 the Second Circuit.

11 THE COURT: In the first instance I'll have to  
12 resolve it.

13 MR. ROSENBLUM: That's correct, Your Honor. If  
14 you haven't already.

15 THE COURT: And the footnote says what -- that has  
16 to be resolved before -- in other words, if the plan is  
17 confirmed, I've got to resolve any claim objection against  
18 the Diocese before the litigation in the non-bankruptcy  
19 forum goes forward.

20 MR. ROSENBLUM: That's correct, Your Honor.

21 THE COURT: What's wrong with that, Mr. Stang?

22 MR. STANG: Well, there's nothing -- well, for  
23 today there's nothing wrong with it. I think people who are  
24 in that position should know that their state court  
25 litigation is going to be stopped if they file --

1 THE COURT: It sure doesn't take me very long to  
2 rule on claim objections.

3 MR. STANG: Well, you're moving along with great  
4 speed and alacrity. But I'm just saying that if there are  
5 any claims before Judge Steinman that are affected by this  
6 footnote, then people should know that.

7 THE COURT: Why would they be affected by this  
8 footnote? Judge Steinman can do everything he wants to do  
9 with respect to the non-debtor party.

10 MR. STANG: It says, "The claim objection will be  
11 resolved prior to any litigation proceeding with respect to  
12 such alleged abuse."

13 THE COURT: Okay.

14 MR. STANG: It doesn't say --

15 THE COURT: It shouldn't. I agree with you. It  
16 shouldn't. It should say litigation with respect to the  
17 Debtor should not proceed until the claim objection is  
18 resolved.

19 MR. STANG: That's what I didn't understand, Your  
20 Honor.

21 THE COURT: Do you disagree with that? This is  
22 all very theoretical because it's...

23 MS. BALL: Your Honor, we're just conferring. And  
24 we're back to the slide I showed you where you had  
25 litigating abuse claims, the 110. You have claim objections

1 and some 46 of them also state court actions --

2 THE COURT: Let me ask this --

3 MS. BALL: So that's it. The bankruptcy goes  
4 first.

5 THE COURT: If a claim objection -- if an  
6 objection to claim against the diocese arises in a -- is  
7 pending in a litigation abuse claim, the objection to the  
8 claim against the diocese will be resolved in the bankruptcy  
9 court.

10 MS. BALL: Ahat would be fine, Your Honor.

11 THE COURT: Is that all right?

12 MS. BALL: That would be fine.

13 MR. STANG: That I can understand.

14 THE COURT: Okay.

15 MS. BALL: That would be fine.

16 MR. STANG: I didn't understand that.

17 MR. ROSENBLUM: We'll clarify that, Your Honor.

18 THE COURT: I don't have the exact words, but we  
19 get the -- I think it's clear. Okay? Resolved?

20 MR. STANG: It sounds like it.

21 THE COURT: Okay.

22 MR. STANG: The next issue, Your Honor, is on Page  
23 135 of 255. It is -- I don't know what to call these.

24 Diagrams?

25 THE COURT: Yes.

1 MR. STANG: Okay. In this document there are  
2 statements that after you've gotten your minimum payment,  
3 there is the opportunity to get more from the trusts. And  
4 what they put -- and it's small font for me. When you look  
5 at these bubbles, there is a settlement sub fund. For the  
6 Class Five forty -- there's a -- six million dollars.

7 THE COURT: \$49,660,100.

8 MR. STANG: There is a suggestion there that  
9 that's the amount that the trust can distribute above and  
10 beyond the minimum payments. But that's not correct because  
11 there are various reserves including all these self-insured  
12 retentions that Mr. Roten was talking about, plus other  
13 expenses.

14 I would suggest there be a footnote somewhere  
15 inside this diagram so that creditors are advised that these  
16 numbers that are in the -- maybe all the sub funds -- are  
17 subject to trust expenses.

18 THE COURT: Mr. Rosenblum?

19 MS. BALL: That's accurate, Your Honor. So we  
20 will adjust that.

21 MR. STANG: Good.

22 THE COURT: You won again. You're on a roll.

23 MR. STANG: I'm doing great, Judge.

24 THE COURT: I think I agreed with virtually all of  
25 the objections you've made.

1 MR. STANG: No, I'm serious. The next one is risk  
2 factors. This is Page 137 of 255. And it's building on  
3 something that Ms. Ball was saying in connection with the  
4 disclosure of the individual parish contributions. And from  
5 my notes, which he was telling you, was that they are in  
6 process of pulling together contributions from the parishes.  
7 And if people find out --

8 THE COURT: They're in the process of getting  
9 commitments from the parishes.

10 MR. STANG: Yes. And if the secret sauce recipe  
11 is disclosed, maybe some parishes will go, oh, I don't want  
12 to pay that much.

13 THE COURT: I think what I heard was the  
14 parishioners will be up in arms if they find out that my  
15 parish is paying that much money when we have only one sex  
16 abuse claim.

17 MR. STANG: I was trying to say it in plain  
18 English. But yes, that's exactly what she was saying. They  
19 don't have those commitments. They don't --

20 THE COURT: Wait, wait, wait. That ought to be  
21 clear. Do you have the commitments, Mr. Ball?

22 MS. BALL: Your Honor, we have sourced each dollar  
23 in the 78.1 with a party. We are worried about  
24 parishioners, parents of Catholic school children.

25 THE COURT: Let's just --



1 MS. BALL: But yes, the answer is yes.

2 MR. STANG: I heard the answer to that is no.

3 THE COURT: No. You have the commitments,  
4 correct?

5 MS. BALL: We do, Your Honor.

6 MR. STANG: I heard she -- well, if she says they  
7 have the commitments from the parishes to fully fund, then  
8 I'm done with it. But that's not what I heard. I heard --

9 THE COURT: Let me ask the question.

10 MR. STANG: Fine.

11 THE COURT: Do you have the commitments from the  
12 parishes to fully fund the amount that's described in the --

13 MS. BALL: We have the commitments to fully fund  
14 the \$78.1 million by and on behalf of parishes.

15 MR. STANG: Thank you.

16 THE COURT: You won another one.

17 MR. STANG: That's not a win or loss. I mean,  
18 that's actually -- I don't know where that falls. Okay.

19 Your Honor, Page 142 of 255, which is a discussion  
20 regarding the limited exculpations. And particularly it is  
21 the next-to-last paragraph of that sort of boxed-in chart.

22 THE COURT: Counsel representing Official  
23 Committee members have not filed a disclosure?

24 MR. STANG: Well, no, there's nothing -- but what  
25 they say is the Committee professionals are not getting an

1       exculpation. They do not explain why. The explanation they  
2       give is to why the state court counsel are not getting  
3       exculpations.

4               So first, they don't explain why any of the  
5       Committee professionals are carved out. I think that they  
6       should do that.

7               Second, this is a totally gratuitous attack  
8       specifically on Mr. Anderson. Because he is the one they  
9       are referring to when they talk about the 9019 -- I'm sorry,  
10      the 2019 statement in connection with -- I guess is it the -  
11      - one of the cases. I think it might be the Syracuse. I'm  
12      not sure which one it is. Rochester.

13              It has nothing to do with this case. If they want  
14      to ask you to impose some kind of remedy for people who do  
15      not file 2019 statements by a date certain, then let them  
16      bring that to you and ask for your consideration. This has  
17      nothing to do with this case.

18              THE COURT: Does it have anything to do with this  
19      case, Ms. Ball, Mr. Rosenblum? One of you.

20              MS. BALL: Your Honor, we submit --

21              MR. ROSENBLUM: Your Honor, the public UCCs filed  
22      by Mr. Anderson's firm confirmed that he has leaned up  
23      diocesan cases which include this case. And our statement  
24      is not that he is doing anything necessarily wrong, but it's  
25      our plan and for us to go out and seek exculpation for him

1     when we don't know what state court counsel are doing and we  
2     know that they've leaned up --

3             THE COURT:   Take out anything related to any other  
4     case.   You pick up, in Chapter 11 cases filed by other Roman  
5     Catholic diocese where counsel have filed 2019 statements,  
6     parties have raised questions concerning -- we're not going  
7     into what's happening elsewhere.

8             MR. ROSENBLUM:   Okay.

9             THE COURT:   So does that take out that whole  
10    paragraph?   Which language comes out?

11            MR. STANG:   The first sentence may be true.   I'm  
12    not sure it is, but we can check the docket to see if  
13    anything was filed, a 2019 statement.

14            MR. ROSENBLUM:   No one has filed a 2019 statement.

15            THE COURT:   You're saying it's an accurate  
16    statement in this case that -- the sentence counsel  
17    representing other official -- well, representing official  
18    committee members have not filed disclosure statements  
19    pursuant to Bankruptcy Rule 2019 in this case.   That's an  
20    accurate statement?

21            MR. ROSENBLUM:   That's an accurate statement.

22            THE COURT:   Okay.   What about the rest of that  
23    paragraph?

24            MR. ROSENBLUM:   The last sentence, we're not  
25    seeking exculpation for the professionals at this time.

1 THE COURT: All right. Mr. Stang?

2 MR. STANG: Yes, that's fine, Your Honor.

3 THE COURT: Okay. Let's just -- we've got enough  
4 to worry about with this case without opening up to what's  
5 going on elsewhere.

6 MR. STANG: Your Honor, Page 144 of 255. The  
7 third full paragraph. And it's really a question I've got  
8 as opposed to alternative language.

9 THE COURT: Hold on, hold on. 144. I'm there  
10 not.

11 MR. STANG: Okay. What this says is that --

12 THE COURT: Which paragraph are you talking about?

13 MR. STANG: Third full paragraph. It's  
14 interlineated. It starts, "Litigating abuse claims will  
15 receive no distribution until all litigating abuse claims  
16 have been fully resolved."

17 My question is are the indirect abuse -- this is  
18 what I'm concerned about. I am concerned that the insurance  
19 companies have indirect abuse claims. Because if their  
20 coverage position is sustained, they may have claims against  
21 the Diocese on account --

22 THE COURT: If they pay on a parish, they may have  
23 claims against the diocese, is that what --

24 MR. STANG: Well, no. If it's determined they  
25 have no coverage exposure at all and they've paid out any

1 defense costs. That would probably be more -- potentially  
2 Arrowood. I don't know if they get attorney's fees if they  
3 win their coverage action.

4 I guess my point is this. We all understand now  
5 litigating abuse claims in the context of -- or maybe  
6 contested abuse claims -- in the context of the Diocese  
7 making a challenge to a claim. But this defined term  
8 encompasses indirect abuse claims as well.

9 We know there are seven entities that -- those  
10 seven that were listed that are indirect abuse claims that I  
11 -- I don't know if those -- all indirect abuse claims are  
12 litigation abuse claims. They are included in the  
13 definition. So we know there are the seven that were  
14 listed. And I don't know if the insurance companies are  
15 part of the indirect abuse claim terminology as well.

16 And so it's simply that -- you know, to say they  
17 have been fully resolved --

18 THE COURT: Is it an accurate statement to say  
19 there is a risk that the expenses of litigating and  
20 litigating abuse claims either or both settlement trusts may  
21 exceed the amount of funds in the applicable sub fund?

22 MR. STANG: Absolutely.

23 THE COURT: That statement is here, right?

24 MR. STANG: Yes. I'm thinking more about the  
25 timing than I am about whether there's anything to

1 distribute. They can't distribute a dollar out of those sub  
2 funds until all of the litigation abuse claims have been  
3 resolved.

4 THE COURT: So you want it to say litigating abuse  
5 claims will receive no distribution from the applicable  
6 litigating claim sub fund until all litigating abuse claims,  
7 including --

8 MR. STANG: It's a matter about who are we talking  
9 about. And if we're talking about the insurance coverage  
10 actions as well, that is something that I think survivors  
11 should know. Because my first read of this was, oh, well,  
12 they're talking about their claims objections.

13 But because litigation of abuse claims includes  
14 indirect abuse claims, it would include any counterclaims  
15 for contribution that the seven have. And I'm asking does  
16 it include claims that the insurance companies might have.  
17 That's really my question. Because it's not clear to me  
18 whether the insurance companies are indirect abuse  
19 claimants. And I think if they are, people should know that  
20 given the pendency of the coverage actions.

21 MR. ROSENBLUM: Your Honor, I don't believe any of  
22 the insurance companies have filed proofs of claim, but we  
23 are -- I think indirect abuse claims would cover them to the  
24 extent they had claims. So we can include language.

25 MR. STANG: There are numerous insurance companies

1       that (indiscernible).

2               THE COURT:   Just add the -- work out the  
3       additional -- it's another clause I think.

4               MR. ROSENBLUM:   We're happy to include them.

5               MR. STANG:   Oaky.

6               THE COURT:   You won again.

7               MR. STANG:   I'm doing great.   Let's see.   On Page  
8       145 of 255, the paragraph above the one that starts,  
9       "litigating abuse claims".

10              THE COURT:   I'm sorry, it starts...

11              MR. STANG:   Okay.   So if you go to the bottom,  
12       you'll see there is in italicization, "litigating abuse  
13       claims".

14              THE COURT:   Yes.

15              MR. STANG:   Okay.   The paragraph above that.

16              THE COURT:   Yes.

17              MR. STANG:   And it talks about how you can get a  
18       point advancement.   They should specify --

19              THE COURT:   Let me read it to myself first.

20              MR. STANG:   Okay.   Your Honor, it's a long  
21       paragraph.

22              THE COURT:   It's not that long.

23              MR. STANG:   Okay.

24              THE COURT:   Hold on.   Okay, go ahead.

25              MR. STANG:   To the exclusion of any ecclesial

1 claimants. Because they've said before that ecclesial  
2 claimants can't do this.

3 THE COURT: Add a clause.

4 MR. STANG: Okay.

5 THE COURT: Do you agree, Ms. Ball?

6 MS. BALL: Technically no, Your Honor. But I  
7 think --

8 THE COURT: Technically no?

9 MS. BALL: -- common sense would suggest that no  
10 one with an ecclesia claim would do it. Because there's no  
11 insurance settlement on the horizon from ecclesia, so why do  
12 it? We agree on --

13 MR. STANG: There actually would be a reason to do  
14 it, but I'm not sure I want to say it public. I can tell  
15 Ms. Ball afterwards why we think it should be clear whether  
16 ecclesia people can do this or not.

17 THE COURT: Could you work out the language to  
18 add? May be unnecessary, but...

19 MR. STANG: Okay. Next, Your Honor, 146 of 255.

20 THE COURT: Hold on.

21 MR. STANG: I'll wait for you to get to the page.

22 THE COURT: Going the wrong way. Okay.

23 MR. STANG: It is under sub-point D as in dog.

24 The second paragraph. And if you would read the first two  
25 sentences, please.



1 THE COURT: Okay.

2 MR. STANG: Starting with "under the plan".

3 THE COURT: Okay.

4 MR. STANG: This to me is a risk factor. And I  
5 don't know whether we have gone beyond the material  
6 extension. You have said that a mid-March voting deadline  
7 is not going to happen. And so they said that they're okay  
8 for the \$16 million so long as the plan confirmation  
9 timeline is not materially extended.

10 I guess I would like to hear from the Debtor what  
11 they think a material extension would be and if we're in a  
12 position of having to make a statement in risk factors  
13 regarding --

14 THE COURT: Tell me this.

15 MR. STANG: Are you talking to me or --

16 THE COURT: You, Mr. Stang.

17 MR. STANG: Yes, sir.

18 THE COURT: I'm sorry, Mr. Stang.

19 MR. STANG: No, no. I just didn't know who you  
20 were pointing to.

21 THE COURT: When somebody reads a transcript, they  
22 don't see what's going on. Okay?

23 You think that creditors need more time to be able  
24 to digest all this stuff and vote, right?

25 MR. STANG: Yes. We thought that their time

1 deadline was too short.

2 THE COURT: How much time do you think it should  
3 be?

4 MR. STANG: I believe we agreed that --

5 MS. DINE: We had agreed to the March 15th date to  
6 try and move -- Your Honor, Karen Dine on behalf of the  
7 Committee. We actually have -- to the extent that this is  
8 going out for a vote, the Committee and others are getting  
9 anxious that it just gets moving. So we had actually on an  
10 assumption that if this were approved today it would go out  
11 on the 13th had agreed to the March 15th deadline. But I  
12 think --

13 THE COURT: It's not getting approved today. I'm  
14 not trying to -- let me interrupt you. I want to get this  
15 done. I know you're objecting.

16 MR. STANG: But we want votes out, too. We really  
17 do.

18 THE COURT: I'm going to get another blackline.  
19 There are things that you've got to work out language. The  
20 sooner I get it, the sooner I can act. What I would say is  
21 if you think on the assumption that it was approved today,  
22 March 15th works. Just move March 15th by the number of  
23 days before there is an order anywhere.

24 MR. STANG: I guess what I'm really saying to the  
25 Debtor and to the Court is they have kind of a floor of an

1 amount of money they have to have, \$16 million, in order to  
2 be able to fund their share of the 200. They say but if the  
3 timeline is materially extended, we're not sure that the 200  
4 is -- our piece of the 200 is going to be there.

5 So I would just like the Debtor to keep in mind  
6 that they do have this reservation. And if the ultimate  
7 timeline changes, that should be something the disclosure  
8 statement should reflect.

9 THE COURT: Ms. Ball?

10 MR. STANG: Just a cautionary statement perhaps.

11 MS. BALL: Your Honor, we'll work on it.

12 THE COURT: Okay.

13 MS. BALL: But we're really thinking it's a 30-day  
14 vote and we're hoping to get guidance from you on exactly  
15 what you just said about getting you the revised pages and  
16 getting the Committee's language. Next week. Love to be in  
17 front of you next Friday and submit everything to you  
18 Wednesday.

19 THE COURT: Why Friday?

20 MS. BALL: Because I'm assuming the Committee can  
21 get us theirs by Monday. We'll get you everybody's by  
22 Wednesday. And if you're available Thursday and you're  
23 willing to act overnight, that was all. But we'll do it  
24 Thursday if that's what you want.

25 THE COURT: Okay. Mr. Zipes, did you want to say

1 something?

2 MR. ZIPES: Your Honor, I don't want to say  
3 anything about the timeline. Greg Zipes with the U.S.  
4 Trustee's Office. I did have a comment about the ballot.  
5 And I'll --

6 THE COURT: We'll get to the ballot. The ballot  
7 needs to be redone. I said that earlier today. Go ahead,  
8 Mr. Stang.

9 MR. STANG: Your Honor, I'm almost...

10 THE COURT: I'm interrupting you. Mr. Zipes, have  
11 you given the Debtor proposed language changes for the  
12 ballot?

13 MR. ZIPES: Your Honor --

14 THE COURT: I know you objected to the ballot.

15 MR. ZIPES: We objected to it for a specific  
16 reason that we think is clear. And to our knowledge, the  
17 ballot has not been changed. But I can just raise --

18 THE COURT: Look. I think we're headed to an  
19 approved disclosure statement, soliciting material, ballot,  
20 everything. The sooner we get there, the better. Everyone  
21 has to cooperate in fine-tuning the language. Reserve all  
22 your objections and all of that.

23 Go ahead, Mr. Stang, I'm sorry.

24 MR. STANG: Your Honor, I have one more comment.  
25 And I'm sorry, I'm going to ask you to go backwards. But

1 it's only one time. Page 135 of 255. Actually, it shows up  
2 twice. But it's the caption under "the choice".

3 THE COURT: Hold on. Wait, wait.

4 MR. STANG: I'm sorry. I apologize. It's 135 of  
5 255. And this --

6 THE COURT: Wait one...

7 MR. STANG: Sorry.

8 THE COURT: Just so you're all clear, I'm here  
9 Monday through Thursday of next week. I want to get this  
10 done. Now I've got -- we will -- it may be early or late in  
11 the day. Whatever hearings you need, you'll get. Okay?  
12 Let's get it done by Thursday.

13 MS. BALL: Thank you, Your Honor. We will work  
14 with the Committee to try to get you something opening  
15 business Wednesday, and hopefully a hearing Thursday.

16 THE COURT: Go ahead.

17 MR. STANG: Okay.

18 THE COURT: Come on, Mr. Stang.

19 MR. STANG: No, no, no. It's fine. 135 of 255.  
20 The bold letters below the graphs.

21 THE COURT: The choice?

22 MR. STANG: Yes. The choice is not vote for the  
23 plan or choose dismissal, it's --

24 THE COURT: I agree, it's not.

25 MR. STANG: -- vote for the plan or risk

1 dismissal.

2 MS. BALL: We can do that.

3 MR. STANG: And then that shows up -- and this is  
4 my last comment.

5 THE COURT: Go ahead.

6 MR. STANG: 137 of 255 is the second line on that  
7 page. It says, "The alternative here, dismissal of this  
8 bankruptcy case." It should say in the alternative -- an  
9 alternative, the risk of dismissal.

10 MS. BALL: I'm sorry, I don't know where you are,  
11 Mr. Stang. Okay, thank you.

12 MR. STANG: It should say an alternative here, the  
13 risk of dismissal in this bankruptcy case.

14 THE COURT: Okay.

15 MR. STANG: With that, Your Honor, I'm going to  
16 sit down. Ms. Dine may have comments.

17 THE COURT: Ms. Dine, you know, usually I only  
18 want to hear one counsel. But let's get everything on the  
19 table.

20 MS. DINE: Including the solicitation procedures,  
21 Your Honor?

22 THE COURT: Yes. Let's move to the solicitation  
23 procedures. You did a wonderful job putting the disclosure  
24 statement in plain English. Not so wonderful job with  
25 respect to the ballot.

1 MS. DINE: Your Honor, Karen Dine, Pachulski Stang  
2 Ziehl & Jones, on behalf of the Committee.

3 With respect to the solicitation procedures, we  
4 did not raise specific comments on the ballot. And  
5 certainly to the extent Your Honor has comments -- and we  
6 can work with the Debtor on changes to the ballot. We did  
7 though want to be included in the process and receive  
8 updated reports as the Debtor gets them of the balloting to  
9 have at least some consultation or consent rights to the  
10 extent that they are extending the voting line or with  
11 respect to defective ballots and examining those. And so we  
12 had asked for those and been told no. And the other --

13 THE COURT: Am I correct that creditors have the  
14 right to change their vote up to the deadline? That's what  
15 typically is provided. And my comments earlier, wishful  
16 thinking on my part. You're finally going to get serious  
17 about negotiating when the package goes out, solicitation  
18 and voting. And, you know, it should only happen sooner.  
19 But I've seen this, you know, request to extend the voting  
20 deadline and then the plan gets tinkered with and votes  
21 suddenly change. And I'm sorry if this is down to a game of  
22 chicken now. Look, I really do think this is a terrible  
23 result for everybody. For the survivors, for the diocese,  
24 the parishes. It's a terrible result if this case winds up  
25 being dismissed.

1 I think, you know, survivors who wind up at the  
2 end of -- first off, you're going to wind up with parishes  
3 in bankruptcy and survivors who wind up at the end of the  
4 line. We're going to be adding (indiscernible) them. But  
5 you'll all do what you're going to do. But I just -- you  
6 know, I said this earlier this morning. I kind of have this  
7 feeling this dance is going on. Let's get this step out of  
8 the way. And I suddenly envision -- maybe it's not going to  
9 happen. I don't know. But there are going to be requests  
10 to extend the voting deadline.

11 Ms. Ball, do you object to consulting with the  
12 Committee about extending the date, the voting deadline?

13 MS. BALL: Your Honor, extending a date when we're  
14 all in the same room, getting notice through yourself, I  
15 have no objection. The other consent rights were far more  
16 troubling, remembering they will be actively soliciting  
17 rejection of the plan.

18 THE COURT: I know they're going to have town hall  
19 meetings and...

20 MS. BALL: And that changes votes can be a product  
21 of saying counsel in so many cases, I'm big, you're small,  
22 how can you do this.

23 So, Your Honor, there's a lot of opportunity for  
24 mischief here. But actually I would like to defer these  
25 questions to Mr. Rosenblum, who is responsible for the



1 solicitation.

2 THE COURT: What are you objecting to on  
3 consultation with the committee?

4 MR. ROSENBLUM: Your Honor, we can consult with  
5 the Committee. But what they asked for were consent rights  
6 over everything. And the procedures contemplate that  
7 everything is subject to contrary order of the Court. So if  
8 they think we're doing something inappropriate, they can get  
9 a court order. But for them to be able to unilaterally  
10 block things we don't think is appropriate.

11 THE COURT: Well, none of you are going to do this  
12 unilaterally, period. If you want to extend the voting  
13 deadline, you've got to get mt to say the voting deadline is  
14 extended. I just do that in all my -- I don't let the  
15 parties -- I don't let the parties do it. I don't require  
16 formal motions. I require a letter or a telephone call, we  
17 set up a conference call. I don't hold the process up, but  
18 I don't give the parties unilateral right to do those  
19 important things.

20 MS. BALL: That's fine, Your Honor.

21 MS. DINE: Understood, Your Honor. And just to  
22 say one of our concerns -- and I don't know if this goes to  
23 Ms. Ball's point -- was just a concern that if defective  
24 ballots came in or ballots they viewed as defective came in  
25 before the voting deadline, we wanted to be kept abreast of

1       that. And whether that's working with the Debtor to reach  
2       out together to any claimants to try and make sure that they  
3       have the full opportunity to vote as -- certainly the  
4       ballots are very complicated and --

5               THE COURT: Do you have any objection to that, Ms.  
6       Ball? Look, transparency and openness is the only way this  
7       case is going to work.

8               MS. BALL: Your Honor, I would remind that it's  
9       the voting tabulation agent that declares it defective. So  
10      it's not us.

11              THE COURT: But you'll find out for the defective  
12      --

13              MS. DINE: And our issue isn't that it may well be  
14      defective and they're concerned maybe that we take that as  
15      an opportunity and calling somebody to try and get them to  
16      correct it, to correct it the way we want. So if there's a  
17      way we could at least coordinate that -- what we want to be  
18      sure of is that everybody actually gets their chance to  
19      vote. And the fact that they, you know, marked two boxes,  
20      that they get the chance to go back and mark just the one  
21      box, for example.

22              MS. BALL: Your Honor, there has to be a way to  
23      deal with our concern and theirs. And so far, we've tried  
24      to work on this solicitation and it has been very  
25      productive. Can you let us --

1 THE COURT: Yes.

2 MS. BALL: -- take a shot at how -- sharing this  
3 information is not the issue. It's the outreach that  
4 concerns us.

5 THE COURT: Okay. I should have raised this point  
6 earlier, voting. This doesn't necessarily have to be the  
7 final language. Any claimant who also has a CVA lawsuit  
8 pending against a covered party shall be entitled to vote on  
9 the plan. If the claim against the diocese has been  
10 expunged, whether or not the decision is final, the claimant  
11 shall have a claim for voting purposes of one dollar.

12 I believe it's improper to remove the right to  
13 vote from any claimant who has a CVA action that's pending.

14 MS. BALL: That would be (indiscernible), Your  
15 Honor.

16 THE COURT: I'm sorry?

17 MS. BALL: You're referring to the CVA actions  
18 against covered party that we propose --

19 THE COURT: Against covered party, yes.

20 MS. BALL: -- could cause insurance to be  
21 channeled.

22 THE COURT: It is. Okay. I don't want to get  
23 into this issue of, well, you know, appeals are final and  
24 their claim against the diocese is expunged, they don't get  
25 to vote. What I want to be clear is if they have a claim

1       against a lawsuit, a CVA lawsuit against a covered party,  
2       they get to vote. What's the amount of the other votes? Is  
3       everything one dollar?

4               MS. BALL: That's fine, Your Honor.

5               THE COURT: Is everything one dollar?

6               MR. STANG: Yes.

7               THE COURT: That's what I thought. They get the  
8       same one dollar. It's not affecting a large number of  
9       claims. I just don't want anybody with a CVS lawsuit to  
10      feel that they were disenfranchised from voting on the plan.  
11      There may be different issues when we get to confirmation.  
12      I want to be clear. I'm not citing any confirmation issues.  
13      But they shouldn't feel that they were disenfranchised from  
14      voting on a plan that affects their rights. Okay.

15              So the only thing that's change from what I can  
16      propose is -- if I understood you earlier today, if the  
17      expungement is final, they don't get to vote. Am I right  
18      about that?

19              MS. BALL: Yes.

20              THE COURT: Okay. So that's the only change I am  
21      making. I wrote this language down a little while ago.  
22      Find where it goes. And it doesn't have to be working out  
23      exactly -- I just want to be sure that anybody with a CVA  
24      action against a covered party...

25              MS. BALL: Votes.

1 THE COURT: Votes.

2 MS. BALL: Understood, Your Honor.

3 THE COURT: Okay. Go ahead. I'm sorry, Ms. Dine,  
4 I interrupted you. I wrote it down on a piece of paper and  
5 I forgot to raise it.

6 MS. DINE: Thank you, Your Honor. that's very  
7 helpful. And I really only had one last item, which may be  
8 a little more appropriate to take up when we have a sense of  
9 the new schedule. But in terms of the timing of a hearing  
10 on the motion to dismiss, the Committee's request would be  
11 that after the tabulation of the votes are in, which may  
12 then toggle which direction the Debtor decides to go, that  
13 there would be at least 14 days for the Committee to respond  
14 to any such motion.

15 THE COURT: I will follow my usual practice,  
16 asking the Committee and the Debtor to work out a schedule.  
17 They can file their motion, but it doesn't necessarily mean  
18 it's heard on the 14th day. Okay? If we unfortunately  
19 reach that eventuality, you will work out -- I'm not going  
20 to drag this out, but I'm going to give you time to respond.  
21 It's one thing to file the motion. It's another thing to  
22 get the hearing and the ruling. I'm trying to schedule  
23 things very promptly and not let things linger.

24 MS. DINE: Understood. And I believe Ms. Ball had  
25 mentioned this earlier. Again, our concern is just we don't

1 think that the parties should be spending time, expending  
2 effort. You know, for example, preparing for a plan  
3 confirmation hearing or a dismissal hearing until we really  
4 know what direction this is going to go.

5 THE COURT: Would you please -- is there any  
6 mediation going on again or not?

7 MR. STANG: Nothing scheduled, Your Honor.

8 THE COURT: It seems to me that when I sign the  
9 order approving the disclosure statement, it's time to  
10 mediate again. Because I think the clock really starts  
11 running. There's a voting deadline. And if it doesn't get  
12 extended, the votes, that's it. You're shaking your head,  
13 Mr. Stang.

14 MR. STANG: Your Honor, I'm not sure that the day  
15 after it goes out is the time to start. I think both sides  
16 need to see how the voting is coming out. If I get a -- if  
17 there's a big block of votes that we had counted as a no  
18 that come out as a yes -- because we're constantly thinking  
19 about who is going to do what -- then that would make us go,  
20 well, there's some risk here. And vice versa.

21 THE COURT: Yeah. You've got to play your cards  
22 close to the vest.

23 MR. STANG: Well, we both are, Your Honor.

24 THE COURT: You are. That's right.

25 MR. STANG: I mean, Ms. Ball comes in here time

1 after time telling you that there are state court counsel  
2 just waiting for her return phone call because they want to  
3 sign on. But she's never told us how many people are doing  
4 that, who they are --

5 THE COURT: Let's leave that out. Okay?

6 MR. STANG: Well, I'm just saying. But both of us  
7 are playing it pretty close to the vest.

8 MS. DINE: With that, Your Honor, I think I'll sit  
9 down.

10 MR. STANG: Mr. Roten and I are going to go sit  
11 next to each other.

12 THE COURT: Mr. Zipes, on the ballot. Let's talk  
13 about the ballot.

14 MR. ZIPES: Your Honor --

15 THE COURT: I didn't -- you know, I don't have a  
16 copy of it written and marked. I just thought, ugh -- I  
17 don't know what a transcript says for this.

18 MR. ZIPES: Your Honor, my comment is just one at  
19 this point. And I don't think we need the ballot in front  
20 of us. It's reflected in our objection. And, Your Honor,  
21 the ballot has a specific box where the attorney can check  
22 the ballot on behalf of the survivor.

23 THE COURT: They are agents.

24 MR. ZIPES: As an agent. And, Your Honor, we  
25 believe in this case and in other diocese cases we've made

1     this argument as well, that the survivor, him or herself,  
2     should be signing -- this is not a public document, but  
3     there should be some acknowledgement that the survivor has  
4     actually reviewed everything and understands what's  
5     happening given the nature of this case. But we're  
6     concerned that the attorneys may have too much control. Too  
7     much control might be the wrong word for it.

8             THE COURT: Attorneys have obligations. They  
9     represent clients.

10            MR. ZIPES: They do.

11            THE COURT: They have a fiduciary duty to their  
12     client. If they do something contrary -- if they don't have  
13     authority to do what they did, they could have their ticket  
14     pulled at some point. Potentially the risk of it. I  
15     just...

16            MR. ZIPES: Your Honor, I understand your point.  
17     And in a normal case I would agree with you. In this case,  
18     we think there's maybe some language that the attorneys  
19     specifically verifies that he or she has gone over --

20            THE COURT: I see everybody rising on this one.  
21     Go ahead, Mr. Stang. It's your constituency.

22            MR. STANG: Thank you, Your Honor. Well, their  
23     clients are.

24            For the last 20 years I've worked with many of the  
25     law firms we're talking about. And I think Mr. Geremia can



1     attest some of them are working -- is he here -- very, very  
2     hard in state court and being very aggressive  
3     representatives of their clients. And references to there  
4     may be mischief going on, which I think is what Ms. Ball  
5     said, and this concern that somehow these lawyers are  
6     somehow less ethical or less responsible than any other,  
7     frankly is offensive. It just is. These people work very  
8     hard --

9             THE COURT: I didn't understand Mr. Zipes to say  
10     that.

11            MR. STANG: Says in this case they need  
12     verification.

13            THE COURT: I didn't understand Mr. Zipes to say  
14     that.

15            MR. STANG: Okay. Well, Ms. Ball did the mischief  
16     work. I mean, what is going on here that everyone is taking  
17     potshots at these lawyers who are giving a voice to  
18     survivors who were silenced for years by the legislature and  
19     are now in my opinion trying to be silenced by the Debtor.

20            So I'm just a little tired of having them beaten  
21     up on.

22            THE COURT: Stop. I have your point. The lawyers  
23     are the agents for their client with respect to the ballot,  
24     and I understand the argument you're making, Mr. Zipes, but  
25     it's overruled.

1 MR. STANG: Thank you.

2 THE COURT: But I don't have the ballot in front  
3 of me. I just felt it wasn't sufficiently clear for what it  
4 is people were voting on and what they had to do.

5 Bear with me a second.

6 MR. ZIPES: Your Honor, if you do want to see the  
7 -- if that is the question that you want to see the ballot,  
8 it's Docket -- there are several ballots. I'm sorry.

9 MS. BALL: That said, Judge, we are committed to  
10 work with the Committee on cleaning up solicitation and the  
11 ballot. But if you have guidance that you would like to  
12 share, we are all ears.

13 THE COURT: I don't. Work with the Committee in  
14 clearing it up.

15 MS. BALL: All right. We will --

16 THE COURT: It's in both your interests that it be  
17 as clear as possible.

18 MS. BALL: Totally agree. Totally agree. If  
19 there's any guidance, we welcome it. But we will commit to  
20 do that.

21 THE COURT: All right. It's been a long day.

22 MS. BALL: Anything...

23 THE COURT: I don't have -- I gave you my issues.

24 MS. BALL: Back to the timeline. Back to the  
25 timeline. Is Your Honor available on Thursday afternoon?

1 THE COURT: 3:00.

2 MS. BALL: Thank you, Your Honor. We will  
3 endeavor to get you something on the day before. And let us  
4 work with the Committee on how we get there.

5 THE COURT: Okay. So Deanna is listening as well.  
6 Thursday, February 15th, 3:00.

7 MS. BALL: Thank you, Your Honor.

8 THE COURT: All right. Anything else anybody has  
9 to raise for today? Okay. We are adjourned.

10 (Whereupon these proceedings were concluded at  
11 3:13 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: February 16, 2024

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